

FTS HHS CMS

Moderator: Bob Boggio

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Man: Quintet.

Coordinator: Welcome and thank you for standing by. At this time all participants are in a listen only mode. During the question and answer session, please press star 1 on your touchtone phone.

Today's conference is being recorded. If you have any objections you may disconnect at this time. Now I will turn the meeting over to Mr. Bob Boggio. Sir you may begin.

Bob Boggio: Thanks (Vicky) and thank you everyone who has adjusted your calendar to join us for this special employer forum conference call. Today we have something that very important that many of you may already know about and many of you may think you know about but there are some differences and nuances in changes as a result of the recent Recovery Act.

And that is an overview of the Recovery Act COBRA as we have come to call it. Joining us today we have Amy Turner who is Senior Advisor, Employee Benefits Security Administration in the Department of Labor; Kevin Horahan, Senior Employee Benefits Law Specialist also with the Employee Benefits Security Administration, Department of Labor; Kevin Knopf, Attorney-Advisor, Office of Benefits Tax Counsel, Office of Tax Policy, Department of the Treasury; Russell Weinheimer, Senior Counsel with the Internal Revenue Service; Kathryn Jansak, Health Insurance Specialist with CMS, Division of Private Health Insurance, Medicare Enrollment and Appeals Group, and Kathryn is also the Project Officer for this effort.

And with that I will turn the call over to Kathryn to begin. Kathryn?

Kathryn Jansak: Thank you Bob. I just wanted to welcome you. Thank you for calling in today. First I am going to briefly go over what the ARRA Premium Subsidy is and explain why you have people from three different agencies, departments actually sitting in front of a phone.

First of all, most of you probably know that the Recovery Act provides a 65% subsidy that assists people, former employees, and eligible beneficiaries in covering the costs of COBRA or state continuation coverage.

To be eligible for this benefit, the employee must be eligible for the COBRA or comparable state continuation coverage starting on and between September 1, 2008 up to and including December 31, 2009. And this has to have occurred because the employee was ~~they were~~ involuntarily terminated, one of those words that needs to be defined, and they have to or the qualified beneficiary has to have elected continuation coverage.

The Department of Labor oversees COBRA plans governed by ERISA, plans that are sponsored by private employers with 20 or more employees. The Office of Personnel Management oversees COBRA under Section 8905a of Title 5 of the US Code that is provided to Federal employees.

CMS oversees, under the Public Health Service Act, COBRA plans for state, local and other non-Federal government employees. When Congress drafted the Recovery Act, they put CMS in charge of overseeing disputes when former employees or qualified beneficiaries are denied the subsidy under the program.

So that is how CMS is working on the Federal employees, and state and local employees. And although CMS is not overseeing or making pronouncement on state laws, we are also taking appeals regarding comparable state continuation coverage under ARRA.

So that explains why you have the Department of Labor and CMS, Centers for Medicare and Medicaid Services here.

Additionally, the IRS and the Department of the Treasury play a very, very central role in this because, depending on the facts of the case, if the employee works for--is not covered by state continuation coverage but is covered by COBRA or law that is similar to COBRA-- the employer must take as payment in full 35% payment from the employee depending on how long they are qualified for up to nine months.

The way that the employer is paid back is that they get a credit from the Department of the Treasury via a credit to their payroll taxes. In the case of smaller employers whose employees are covered by comparable state

continuation coverage, this payroll tax credit is generally provided to the insurance companies.

And with that, I will wrap up my presentation and move on to Russ Weinheimer of the IRS.

Russell Weinheimer: Thanks Kathryn. I do not want to spend a lot of time going over the basics. The IRS has put out guidance in two forms, one formal Notice 2009-27 that was published - well it was released to the tax services - on March 31st and formally published in the Internal Revenue bulletin on April 20th. That has 56 or 58 questions and answers.

And then we also have frequently asked questions that have been posted to the IRS Web site and that also has 56 or 58 questions.

I do not want to go over most of the basics because this ARRA premium reduction has been around for eight months now. And it seems to me that people, if they have been trying to comply, they probably know most of the basics.

I have been doing a number of conferences, get a lot of questions and they are about particular fact situations that come up. Most of them are dealing with the concept of involuntary termination whether certain termination is involuntary or not. And that is where a lot of the questions are.

We want to leave time for questions for answers on that issue or other issues that you may have.

What I want to address are basically are three broad issues. One that has come up recently and is probably the most timely one is just what happens if

someone has a termination of employment with health insurance that continues until December 31st, 2009.

Under the statute, you have to have an involuntary termination and a loss of coverage in the window from September 1, 2008 through December 31, 2009. And I think in the administration of general COBRA, there has been some ambiguity that the IRS has never clarified about when exactly does a termination of employment occur and when does a loss of coverage occur.

But I do not think there is any ambiguity about the eligibility of someone who has coverage continuing through December 31, 2009. They could have say an involuntary termination of employment on December 15th. And if based on the terms of the plan that their coverage continues until the end of the month then they are going to have employee coverage due to “active employee status” through December 31st.

The first day of COBRA coverage is going to be January 1, 2010. Under IRS Notice 2009-27 Q&A 13, they have to have COBRA coverage within that window, within September 1, 2008 to December 31, 2009 in order to be entitled to the ARRA premium reduction.

So anyone who has coverage due to “active employee status” - I am using that term loosely. I mean you could be part-time and you could have the beginning because of COBRA coverage and still be active as an employee if you have part-time status.

I am using that as a short hand for getting the coverage for some reason other than COBRA. If you are getting coverage for some reason other than COBRA on December 31, 2008 and you have had an involuntary termination on that day or sometime before then, and your COBRA coverage will not commence

until January 1, 2010, then you will not be an assistance eligible individual, will not be eligible for the ARRA premium reduction with respect to COBRA continuation coverage.

We have gotten that question in a decent amount in the last few weeks. I just wanted to make that clear. And once again I will just repeat even though there is some ambiguity about when does the termination of employment occur or when is there a loss of coverage and it is, you know, is it the last day of employment or the last day that you have coverage or is it the first day without.

Here there is no ambiguity because of the way that Q&A 13 was written. If you have coverage due to something other than COBRA on December 31, 2009, and your COBRA coverage does not commence until January 1, 2010, then you are not an assistance eligible individual.

The second issue that I wanted to address, and this broadly is about what constitutes an involuntary termination. We have a set of nine questions and answers in Notice 2009-27 that deals with this. And also a few questions and answers - frequently asked questions on the Web site that deal with the issue.

I am not going to go into a lot of detail about it but just give you the basic contours. We start off with the basic standard that an involuntary termination is a termination of employment due to the unilateral exercise of the independent authority of the employer to determine the terms of the employment relationship, and if the employee is otherwise willing and able to work at that time.

That is the broad standard. And then we have some what I would call qualifications or some glosses on that. But maybe ratchet it back a little bit.

For example, if somebody resigned due to - an employer announces a reduction in force and says if people will resign I will accept their resignation rather than having to take someone. Under the IRS's notice that constitutes an involuntary termination. If the employer offers a buyout, that would be similar.

Even if you have somebody that has seniority and if there were a layoff, if the employer has announced a reduction in force and somebody with seniority would not [normally be somebody] that is laid off. If they volunteer in connection with that, we are going to consider that an involuntary termination and, if they otherwise meet the requirements, they would be eligible for their premium reduction.

One other gloss is just that you read Q&A 1 and it talks about disabled people that are absent from work due to illness or disability and says mere absence from work due to illness or disability is not an involuntary termination of employment. But then you go to Q&A 4 and it says if while someone is absent from work due to illness or disability an employer takes action to end their employment status, then that will be considered an involuntary termination of employment.

So you just have to be careful if it is the employer taking the action and the employers - and here the question is - with that Q&A 4 you might say well it says the employee otherwise has to be willing or able to work. Well, I think Q&A 4 is the one that controls because it is more particular rather than Q&A 1 that says you have to be otherwise willing and able to work. And Q&A 4 says if the employer takes action while someone is absent from work due to illness or disability that is an involuntary termination.

So those are the rules that we are working under. The last broad issue that I wanted to address is who can claim the credit. The statute establishes three default rules - the default rules for three categories of people. And the IRS has discretion to change those in guidance and this is only a change modified in a couple of cases. And I will get into that after I have told the basic rules.

The basic rule is if it is a multi-employer plan that is a collectively bargained plan for employees with more than one employer, then it is the plan that gets - has to claim the credit. And that is true even if the multi-employer plan does not receive the premiums from the individuals. Let's say they have an insured plan and it is the insurance company that collects the premiums. It is still the multi-employer plan that is . . . entitled to claim the credit.

It may not have any payroll taxes. They are entitled to a refund from the IRS. There are some timing issues there and the IRS is aware of them. And it may be a little bit late in the game for us to issue any guidance on that but we are aware of it. It has just been a difficult problem for us to try to change our systems to allow someone other than the designated person to claim the credit. We have to worry about double dipping. But anyway right now it is the multi-employer plan that claims it in that situation.

If it is an employer that is subject to ERISA or if it has some amount of self-budget coverage that is not insured, then it is the employer maintaining the plan that is entitled to claim the credit.

If it is none of the above, which ends up leaving insurance companies subject to state continuation laws that are comparable to Federal continuation coverage, then it is the insurance company.

And under some of those state laws it is the employer that collects the premium and forwards the premium to the insurance company. And you get a similar problem as with the multi-employer plans where it is the insurance company collecting it.

Well, even if it is the employer that is collecting the premium, it is still under the statute the insurance company is the one that is designated as the one that can claim the payroll tax credit on Form 941. So, and that has not changed in general.

In the last batch of frequently asked questions, if you go to the IRS Web site, we will list at the end of the question the date that the question was first posted on the Web site.

The IRS has some questions and answers that have modified slightly those rules for who can claim the payroll tax credit. First of all, in the case of state agencies, a state, if there is an employing agency and a centralized state agency that otherwise takes care of employee benefits for all state agencies, and even state and local governments, then it is the state agency that handles employee benefits that can claim the payroll tax credit if the employing agency certifies to the centralized agency for employed benefits.

But the employing agency will not claim the credit but certify that the employee was involuntarily terminated, then the central state agency can claim that credit.

The other slight modification is there have existed apparently - I am not an expert on payroll taxes from the IRS. I have dealt with health benefits, requirements for employer, benefit plans for a number of years, COBRA, HIPAA and those kinds of things. I do not have the back ground of payroll

taxes to be able to talk about it very intelligently, but there is apparently a Form 2678 under which an employer can designate someone to be a payroll tax agent for the employer.

And if someone has executed a Form 2678 and has a designated payroll tax agent, then it is still that designated payroll tax agent that claims the credit, not the employer that would be otherwise be entitled to claim the credit.

The other two clarifications that are made in the frequently asked questions are if you have a multiple employer plan that is similar to a multi-employer plan but there is no collective bargaining involved. It is a plan for employees with more than one employer but with no collectively bargained agreement that dictates the terms of the plan.

Under those circumstances, it is each individual employer that is entitled to claim the payroll tax credit.

And last with controlled groups, and then I will turn the time over to Kevin Knopf if he has anything to add to what I have said or to clarify anything that I have said.

In the case of controlled groups, we have a problem because there has been a history for the employee benefit rules under the Internal Revenue Code and under the complimentary provisions under ERISA that they are applied on the controlled group basis.

The payroll tax rules have never been applied on a controlled group basis. So we have the COBRA rules that apply - you determine whether an employer has 20 or more employees in the subject of Federal COBRA based on a controlled group of employers.

But as specified in the frequently asked questions on the IRS Web site, it is each individual employer within a controlled group that claims the payroll tax credit and there is not just one person that claims it for the entire controlled group unless you have a Form 2678 designated payroll tax agent for the controlled group.

That is pretty much what I planned to say Kevin. Do you have anything to add or clarify?

Kevin Knopf: I would note that the question regarding controlled groups is RD14 on the Web site and regarding the state agencies is RD15. Another one of the Q&As which we have come out with, and a bunch of these came out in June, has to do with in what circumstances will the IRS accept an employer's determination that an employee's termination of employment was involuntary for purposes of claiming the payroll tax credit for the COBRA premium subsidy provided by the employer.

There were a lot of concerns early on that - I mean there were some employers saying "well everybody should send in the appeal and that way once Labor says the appeal is okay, I will not worry about it." And we wanted to downplay that notwithstanding the burden on Labor getting a bunch of obvious appeals, but also because I think when we came out of our guidance, it was clear that involuntary termination was somewhat broader than the traditional view of an involuntary termination.

And anyway the outcome of this particular answer in Q&A AE25 was that if an employer's determination that an employee's termination of employment was involuntary for purposes of the COBRA subsidy, if that is consistent with the reasonable interpretation of the applicable statutory provisions and the IRS

guidance, and this is the language of the Q&A, “the IRS will not challenge that determination for purposes of whether the employer is entitled to claim a payroll tax credit for the COBRA premium subsidy provided to the employee.”

The employee is going to have to maintain supporting documentation of this determination that the termination was involuntary including, attestation by the employer of involuntary termination of the covered employee for - whose involuntary termination is the basis of eligibility for the subsidy.

Some other issues that these later Q&As have addressed is for example what about employees who were hired for limited periods such as a seasonal worker or a teacher hired for one school year, can the end of employment at the end of the period be considered an involuntary termination? And the answer in these cases is yes. And this is based on - this is sort of an interpretation of the guidance and Notice 2009-27 where an employer’s failure to renew a contract at any time a contract expires can be an involuntary termination.

Is an elected official involuntarily terminated at the completion of his or her term of office if the official ran for re-election or is not re-elected? Yes. That is A&E 29.

Just by background, the frequently asked questions on the IRS Web site that are related to employers are separated into four groups and they have different initials depending on which one of those are. So, the ones about reporting and documentation are RD numbers. And then there are other prefixed depending on the number. So that is why I am saying AE 29 for that one.

And similarly AE 30 says if an elected official is prohibited from running for re-election because of term limits and voluntarily terminated at the completion of his or her term of office, again yes, that is an involuntary termination.

And the final one on elected officials is if an elected official who was eligible to run for re-election chooses not to, then in that case no. And this is the result even if the official does not run for re-election because of health or other reasons.

And that is all I think...

((Crosstalk))

Russell Weinheimer: Kevin you brought up the fact that the employer could - if the employer applied the IRS guidance and applied a reasonable interpretation of the IRS guidance that would be - in determining what is the termination of employ - involuntary termination that the IRS would not challenge.

As long as you mentioned that, I wanted to bring up a couple of things about multi-employer plans and about the insurance companies too and the additional questions and answers that were added June 5th on the IRS Web site.

We also say that a multi-employer plan and an insurance company can rely on the attestation of either an employer or an employee regarding what constitutes an involuntary termination of employment.

That was it. I just thought I would add that too. So I guess we are turning time over to Kevin Horahan from the Department of Labor.

Kevin Horahan: Okay thanks. I only have a couple of things to add before we turn it over to the audience for questions.

I think the most important thing that I wanted to point out is just to remind everyone that the notices that should be going out to all individuals that become eligible for COBRA or that have a qualifying [event], everybody should be getting ARRA information in their notices.

So they should - all individuals who have a qualifying event should get that full ARRA notice that is available on our Web site. And I think that is particularly important. The discussion we just had about how broadly involuntary termination is being construed.

It is, you know, individuals who may have an event that an employer does not think is an involuntary termination who should have the information that they are entitled to have available to them [regarding the subsidy and] the expedited review process.

So those model notices are available on our Web site which is www.eol.gov/cobra. There is a wealth of information on our Web site there for both employers and employees. So again I would encourage the employers that are on the line to use that as a resource, but to also pass that information along to employees or plan participants who have questions.

We also have a toll-free number 1-866-444-EBSA which is 3272. Both of those are great resources.

The other thing I will just mention quickly is the expedited review process. It is and has been up and running very smoothly by all measures. And again, it is not something that we - I do not want to say we are encouraging people to

take advantage of it. I think the IRS and Treasury have done a great job in getting guidance out there to hopefully make the reviews of denials less necessary.

But it is there and again, COBRA qualified beneficiaries should be aware of its availability through the notice.

So I think that is all I really wanted to say. I will turn it back over to Kathryn or to Bob...

((Crosstalk))

Kathryn Jansak: Thank you.

Kevin Horahan: ...take questions.

Kathryn Jansak: I appreciate that. Thank you all, great job. I forgot to give for people who are affected by CMS, we are also doing expedited reviews. And we have an 800 number which is 866-400-6689 and we have a Web site, continuation coverage, that is one word, at Maximus M-A-X-I-M-U-S dot com. And for the IRS, there is an 800 number which is 800-829-1040.

Anyhow, I guess I will tend to turn it back to you Bob Boggio.

Bob Boggio: Thanks Kathryn and thanks everyone. Vicky why don't, if you would please, let the listeners know how they can line up to ask a question. And what did we ask is that everyone identify themselves and their affiliation if you would.

Coordinator: Thank you. We will now begin the question and answer session. If you would like to ask a question, please press star 1. You will be prompted to record your name. To withdraw your request, press star 2.

Once again, to ask a question, please press star 1. One moment.

Bob Boggio: While we are waiting for folks to queue in, let me just alert the audience, Kathryn and I spoke about this beforehand. We will put together a short fact sheet with all the contact information, the 800 numbers and Web sites and send that out to over the employer form list or by as soon as possible.

So, you know, be on the lookout for that just fact sheet that use as a future reference.

Kathryn Jansak: Great. Thank you Bob.

Coordinator: Andy Anderson you may ask your question. Please state your affiliation.

Andy Anderson: Thank you. This is Andy Anderson from Morgan, Lewis & Bockius in Chicago. I think this is either for Kevin or Russ and would certainly hope to see one or more of you here in Chicago later this week at the ABA meeting.

Kevin Knopf: Do you miss any of these calls Andy?

Andy Anderson: Probably not. But my question focuses on annual enrollment for 2010. I have seen a lot of pretty interesting interpretations by some of the major COBRA vendors with regard to whether an individual can, who is up and running and eligible for the 65% assistance payment, whether they can change their benefits in 2010 and still receive the assistance payment, whether they can add a dependent who may not be a qualified beneficiary onto that coverage in

2010 and if there is a common theme that runs among all these third party administrator interpretations, it is that you cannot change your coverage, you cannot add anyone new to it.

I do not know whether this is a result of system constraints on their part. I do not know whether it is a result of discussions with you guys, but I wonder if you could speak briefly to the way you anticipate the 65% assistance payment should operate when a person on COBRA makes a new or changed election through open enrollment for the start of 2010.

Russell Weinheimer: Well it seems to be there are two separate issues there. And one is just a switch in coverage for the individual and then it is adding people who are not qualified beneficiaries as a separate issue.

But I think Kevin Horahan or maybe some of the other people in the Department of Labor actually know the IRS guidance better than we do because they are using it all the time and making. I do not know whether they process 10,000 appeals or something like that. So they are referring to it all the time.

Kevin Knopf and I have moved onto other things and we have to dig it up again and look at it. But I think it is Q&A 26 in the IRS guidance and Kevin Horahan is looking it up to confirm this, but it tells that you can switch to other options and they can be more expensive as long as there is still COBRA coverage that is still eligible for the ARRA premium reduction.

So I think the first part of your question is answered fairly easily and I think fairly straight forwardly by the questions and answers in Notice 2009-27. And the only ambiguity I can see is well as long as it still constitutes COBRA continuation coverage, well under the IRS regulations, certainly you can

switch options, as long as this is coverage that is made available to similarly situated active employees, then I think it would constitute COBRA coverage.

So I think that is going to answer that question in most situations. There may be some rare situations where it doesn't answer it but I think that will answer it for mostly.

Andy Anderson: And so then how about a person who at open enrollment is picking up for the first time under COBRA perhaps dental coverage which active employees are eligible for and that is something that this individual...

Russell Weinheimer: Yes, you...

Andy Anderson: ...either did not have or did not continue at the onset of COBRA.

Russell Weinheimer: Yes. I think they are eligible for the ARRA premium reduction. I think under the guidance that is the result.

Andy Anderson: Great.

Russell Weinheimer: I do not see room for another reading. As for adding people, you know, let's say the individual had employee only coverage in 2009 and decides in connection with annual open enrollment to get family coverage. And this is his being on COBRA before the end of the year, we have a series of questions and answers, I cannot remember what the numbers are, but we have questions and answers that address both about whether the person who is not a qualified beneficiary is entitled to the coverage and then how you determine because the answer to that is no.

If you have family coverage and you have both assistance eligible individuals and non-assistance eligible individuals that are part of the family that are getting coverage, then we have a separate question to answer that addresses how you determine what portion of that coverage is attributed to the assistance eligible individuals and what portions is attributed to the non-assistance eligible individuals.

And we use basically an incremental cost approach so that you start with the assistance eligible individuals and you say if the total cost of family coverage can be attributed to the number of people that are getting family coverage, then you attribute zero as the cost to the non-assistance eligible individuals.

And so if you have somebody that had self only coverage in 2009 and then is getting fam - and they are on COBRA and they are getting family coverage in 2010, it sounds to me as if the only person that is a qualified beneficiary is the person himself on the coverage.

The example under the notice that would cover that is let's say that you have, the cost of family coverage is \$1000, cost of . . . [self coverage] only covers \$450 a month, you would say yes they can add those people to their coverage because under the COBRA rules they have that right.

But as far as the ARRA premium deduction is concerned, they are going to have the ARRA premium reductions with respect of \$450 of that \$1000 of coverage. So they would pay \$550 on their own for the non-assistance eligible individuals and 35% of \$450 which I am not going to attempt to do in my head but it is in the notice. And add that to the \$550 and that is what they would pay.

And then the employer would be entitled to a 65% credit of the \$450. So I think that is pretty straight forward. I think it is answered in the guidance.

((Crosstalk))

Andy Anderson: Well I think it is, and I wonder if there is a potential gloss on there as well with respect to dependents who were covered under the group health plan at termination of employment. They were qualified beneficiaries, former employee only elected, single COBRA coverage and now wants to add them back on at open enrollment.

They were at one time COBRA qualified beneficiaries. They just haven't bridge coverage through the balance of 2009.

Russell Weinheimer: Yes. I think that probably is not answered in Notice 2009-27, but it should be answered under the general IRS COBRA regulations that say once the election period has expired, an individual ceases to be a qualified beneficiary with respect to that qualifying event.

So they would be no longer be qualified beneficiaries if they did not elect COBRA coverage within the election period.

If their election period happens to still be open, you know, around January 1st of 2010, but they would still have to like retroactive coverage in order to be considered a qualified beneficiary.

If they are just getting added as part of open enrollment, then they still would probably lose their qualified beneficiary status.

Andy Anderson: Okay, and do you guys . . . [see] any additional guidance as a result of these open enrollment questions or do you think you have enough out there to cover this?

Russell Weinheimer: Well based on the questions that you have posed right now, I think I would just rely on the exiting guidance.

Andy Anderson: Very good. Thanks.

Russell Weinheimer: I think we are ready for the next question if there is one.

Coordinator: (Shanna Goodby) you may ask your question.

(Shanna Goodby): I have a question regarding ARRA 15-12 reporting and whether or not COBRA ARRA is - needs to be reported and if so how and where?

((Crosstalk))

Kathryn Jansak: Well are you asking...

Russell Weinheimer: I think I have heard that question circulated within the IRS but it is probably our payroll tax people that are much more familiar with it.

Kevin Knopf: What exact - what was your question again? Does this have to do whether COBRA premium assistance reimbursements need to be reported as ARRA money?

(Shanna Goodby): On the ARRA 15-12 reporting on the Federal reporting dot gov Web site.

Kevin Knopf: No it does not. Basically in ARRA, the COBRA premium assistance are part of Division B of ARRA. And all of the 15-21 whatever reporting has to do with Division A. So it is not required to be reported under that number 15 whatever.

Man: Fifteen...

(Shanna Goodby): Okay thank you. Could I get your name please?

Kevin Knopf: Kevin Knopf.

(Shanna Goodby): You.

Kathryn Jansak: And where were you calling from?

(Shanna Goodby): State of Kansas.

Kathryn Jansak: Thank you.

Kevin Knopf: Yes. The important thing is that there is Division A of ARRA and Division B. And the reporting only relates to Division A and the ARRA premium assistance is in Division B. And there is another provision in there somewhere that says that when we refer to Act, we only mean this Division of the Act. I think in the fifth - and that is why 15-21 is limited to Division A.

(Shanna Goodby): Okay thank you.

Kevin Knopf: You are welcome.

Woman: I think I am good.

Coordinator: Our next question comes from Steve Ignatin. You may ask your question.

Steve Ignatin: Yes. I was wondering if I could direct this question toward the IRS representative?

Russell Weinheimer: Go ahead.

Steve Ignatin: You mentioned that the first day of COBRA needed to be December 31, 2009, so I just wanted to clarify...

((Crosstalk))

Russell Weinheimer: Or earlier. I was just saying in the case of somebody that has coverage through December 31, 2009 if they are getting it by a reason other than COBRA they will not satisfy the requirements for being an assistance eligible individual. They do not have to have coverage on December 31, 2009. That...

((Crosstalk))

Steve Ignatin: No, no, no.

Russell Weinheimer: ...hypothetical.

Steve Ignatin: I understand that.

Russell Weinheimer: Okay.

Steve Ignatin: I just wanted to clarify if I have an employee who terminates December 15 and it is standard operating procedure, that coverage goes through the end of

the month, then coverage would go through December 31. And the first day of COBRA eligibility would be January 1st and they would be ineligible for the Federal subsidies?

Russell Weinheimer: Yes.

Steve Ignatin: Okay. Thank you.

Kathryn Jansak: Okay, could you mention where you are calling from? We are just interested in who the callers are.

Steve Ignatin: I am with the National Business Group on Health.

Kathryn Jansak: Thanks a lot. And Operator would you mind asking people?

((Crosstalk))

Coordinator: I sure can. Once again if you would like to ask...

Kathryn Jansak: Thank you.

Coordinator: ...a question please press star 1 and record your name.

Kevin Knopf: That also assumes that there are no statutory changes at some point, not that we have any views or positions on that.

Kevin Horahan: Or knowledge for that matter.

Coordinator: At this time we have no further questions.

Bob Boggio: Thanks (Vicky). Any afterthoughts anyone? Going once, going twice. Very good. One thing I will point out and I - this is something else that we have agreed to do. If there are any technical questions that you think about afterwards, if you could send them to me I will forward them on to the group.

And again my email is Robert dot Boggio - B-O-G-G-I-O at CMS dot HHS dot gov and we will get a response back to you as soon as possible.

With that let me thank everybody once again, Amy, Kevin, Kevin, Russell and Kathryn. Once again thank you for taking time out of your very busy schedules to present this overview. It is most valuable.

Kathryn Jansak: Thank you Bob.

Bob Boggio: Thanks. And thanks everyone for joining us today. I know it was a switch up on your calendars and we appreciate you joining us.

And we will be in touch regarding next month's call. And with that, everyone enjoy your first day of autumn. At the time is here. So take care. Bye.

Woman: Bye.

END