

116TH CONGRESS
2D SESSION

H. R. 6810

To establish a Health Care Protection Program Fund to provide grants to employers to ensure continuity of coverage under a group health plan through the COVID–19 pandemic, to provide for premium assistance for COBRA benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2020

Mr. RODNEY DAVIS of Illinois (for himself, Mr. SCHRADER, Mrs. WAGNER, Ms. KENDRA S. HORN of Oklahoma, Mr. GONZALEZ of Ohio, and Ms. TORRES SMALL of New Mexico) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Health Care Protection Program Fund to provide grants to employers to ensure continuity of coverage under a group health plan through the COVID–19 pandemic, to provide for premium assistance for COBRA benefits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Care Protection
3 Act”.

4 **SEC. 2. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the COVID–19 pandemic has caused many
7 individuals to lose access to employer-sponsored
8 health insurance at no fault of their own;

9 (2) individuals should not be forced to cover ad-
10 ditional costs associated with healthcare due to a
11 loss of access to employer-sponsored health insur-
12 ance;

13 (3) employers should utilize all tools provided to
14 them by the Federal Government to bring individ-
15 uals back onto payroll so that they may receive bene-
16 fits such as employer-sponsored health insurance;
17 and

18 (4) individuals unable to rejoin the workforce
19 should receive assistance equal to that received while
20 employed so that when an employer makes an offer
21 of employment, the individual does not have an in-
22 centive to reject.

23 **SEC. 3. AMERICAN HEALTH EXCHANGES SPECIAL ENROLL-**
24 **MENT PERIOD.**

25 Section 1311(c)(6) of the Patient Protection and Af-
26 fordable Care Act (42 U.S.C. 18031(c)(6)) is amended—

1 (1) in subparagraph (C), by striking at the end
2 “and”;

3 (2) in subparagraph (D), by striking at the end
4 the period and inserting “; and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(E) a special enrollment period during the
8 30-day period following the date of the enact-
9 ment of this subparagraph during which any in-
10 dividual who is otherwise eligible to enroll in a
11 qualified health plan through the Exchange and
12 who is not otherwise enrolled in such a plan
13 may enroll in such a qualified health plan.”.

14 **SEC. 4. PREMIUM ASSISTANCE FOR COBRA BENEFITS.**

15 (a) PREMIUM ASSISTANCE FOR COBRA CONTINU-
16 ATION COVERAGE FOR INDIVIDUALS AND THEIR FAMI-
17 LIES.—

18 (1) PROVISION OF PREMIUM ASSISTANCE.—

19 (A) REDUCTION OF PREMIUMS PAY-
20 ABLE.—In the case of any premium for a pe-
21 riod of coverage (not to exceed 6 months) be-
22 ginning on or after the date of the enactment
23 of this Act and on or before January 1, 2021,
24 for COBRA continuation coverage with respect
25 to any assistance eligible individual, such indi-

vidual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays (or a person other than such individual's employer pays on behalf of such individual) a percent of such premium such that the amount of such premium so paid is equal to the amount the covered employee with respect to such coverage would have paid with respect to such individual for such period for coverage under the group health plan under which such employee was enrolled at the time of the qualifying event had such event not occurred (as determined without regard to this subsection).

(B) PLAN ENROLLMENT OPTION.—

(i) IN GENERAL.—Notwithstanding the COBRA continuation provisions, an assistance eligible individual may, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, elect to enroll in coverage under a plan offered by the employer involved, or the employee organization involved (including, for this purpose, a joint board of trustees of a multiemployer trust

1 affiliated with one or more multiemployer
2 plans), that is different than coverage
3 under the plan in which such individual
4 was enrolled at the time the qualifying
5 event occurred, and such coverage shall be
6 treated as COBRA continuation coverage
7 for purposes of the applicable COBRA con-
8 tinuation coverage provision.

9 (ii) REQUIREMENTS.—An assistance
10 eligible individual may elect to enroll in
11 different coverage as described in clause (i)
12 only if—

13 (I) the employer involved has
14 made a determination that such em-
15 ployer will permit assistance eligible
16 individuals to enroll in different cov-
17 erage as provided for this subpara-
18 graph;

19 (II) the premium for such dif-
20 ferent coverage does not exceed the
21 premium for coverage in which the in-
22 dividual was enrolled at the time the
23 qualifying event occurred;

24 (III) the different coverage in
25 which the individual elects to enroll is

1 coverage that is also offered to the ac-
2 tive employees of the employer at the
3 time at which such election is made;
4 and

5 (IV) the different coverage is
6 not—

7 (aa) coverage that provides
8 only dental, vision, counseling, or
9 referral services (or a combina-
10 tion of such services);

11 (bb) a flexible spending ar-
12 rangement (as defined in section
13 106(c)(2) of the Internal Rev-
14 enue Code of 1986); or

15 (cc) coverage that provides
16 coverage for services or treat-
17 ments furnished in an on-site
18 medical facility maintained by
19 the employer and that consists
20 primarily of first-aid services,
21 prevention and wellness care, or
22 similar care (or a combination of
23 such care).

24 (C) PREMIUM REIMBURSEMENT.—For pro-
25 visions providing the balance of such premium,

1 see section 6431 of the Internal Revenue Code
2 of 1986, as added by paragraph (12).

3 (2) LIMITATION OF PERIOD OF PREMIUM AS-
4 SISTANCE.—

5 (A) IN GENERAL.—Paragraph (1)(A) shall
6 not apply with respect to any assistance eligible
7 individual for months of coverage beginning on
8 or after the earlier of—

9 (i) the first date that such individual
10 is eligible for coverage under any other
11 group health plan (other than coverage
12 consisting of only dental, vision, coun-
13 seling, or referral services (or a combina-
14 tion thereof), coverage under a flexible
15 spending arrangement (as defined in sec-
16 tion 106(c)(2) of the Internal Revenue
17 Code of 1986), or coverage of treatment
18 that is furnished in an on-site medical fa-
19 cility maintained by the employer and that
20 consists primarily of first-aid services, pre-
21 vention and wellness care, or similar care
22 (or a combination thereof)) or is eligible
23 for benefits under title XVIII of the Social
24 Security Act, or

25 (ii) the earliest of—

1 (I) July 1, 2021,

2 (II) the date following the expira-
3 tion of the maximum period of con-
4 tinuation coverage required under the
5 applicable COBRA continuation cov-
6 erage provision, or

7 (III) the date following the expi-
8 ration of the period of continuation
9 coverage allowed under paragraph
10 (4)(B)(ii).

11 (B) TIMING OF ELIGIBILITY FOR ADDI-
12 TIONAL COVERAGE.—For purposes of subpara-
13 graph (A)(i), an individual shall not be treated
14 as eligible for coverage under a group health
15 plan before the first date on which such indi-
16 vidual could be covered under such plan.

17 (C) NOTIFICATION REQUIREMENT.—An
18 assistance eligible individual shall notify in writ-
19 ing the group health plan with respect to which
20 paragraph (1)(A) applies if such paragraph
21 ceases to apply by reason of subparagraph
22 (A)(i). Such notice shall be provided to the
23 group health plan in such time and manner as
24 may be specified by the Secretary of Labor.

1 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For
2 purposes of this section, the term “assistance eligible
3 individual” means any qualified beneficiary if—

4 (A) at any time during the period that be-
5 gins with March 1, 2020, and ends with De-
6 cember 31, 2020, such qualified beneficiary is
7 eligible for COBRA continuation coverage,

8 (B) such qualified beneficiary elects such
9 coverage, and

10 (C) the qualifying event with respect to the
11 COBRA continuation coverage consists of the
12 involuntary termination of the covered employ-
13 ee’s employment and occurred during such pe-
14 riod.

15 (4) EXTENSION OF ELECTION PERIOD AND EF-
16 FECT ON COVERAGE.—

17 (A) IN GENERAL.—For purposes of apply-
18 ing section 605(a) of the Employee Retirement
19 Income Security Act of 1974, section
20 4980B(f)(5)(A) of the Internal Revenue Code
21 of 1986, section 2205(a) of the Public Health
22 Service Act, and section 8905a(c)(2) of title 5,
23 United States Code, in the case of an individual
24 who does not have an election of COBRA con-
25 tinuation coverage in effect on the date of the

1 enactment of this Act but who would be an as-
2 sistance eligible individual if such election were
3 so in effect, such individual may elect the
4 COBRA continuation coverage under the
5 COBRA continuation coverage provisions con-
6 taining such sections during the period begin-
7 ning on the date of the enactment of this Act
8 and ending 60 days after the date on which the
9 notification required under paragraph (7)(C) is
10 provided to such individual.

11 (B) COMMENCEMENT OF COVERAGE; NO
12 REACH-BACK.—Any COBRA continuation cov-
13 erage elected by a qualified beneficiary during
14 an extended election period under subparagraph
15 (A)—

16 (i) shall commence with the first pe-
17 riod of coverage beginning on or after the
18 date of the enactment of this Act, and

19 (ii) shall not extend beyond the period
20 of COBRA continuation coverage that
21 would have been required under the appli-
22 cable COBRA continuation coverage provi-
23 sion if the coverage had been elected as re-
24 quired under such provision.

1 (5) EXPEDITED REVIEW OF DENIALS OF PRE-
2 MIUM ASSISTANCE.—In any case in which an indi-
3 vidual requests treatment as an assistance eligible
4 individual and is denied such treatment by the group
5 health plan, the Secretary of Labor (or the Sec-
6 retary of Health and Human Services in connection
7 with COBRA continuation coverage which is pro-
8 vided other than pursuant to part 6 of subtitle B of
9 title I of the Employee Retirement Income Security
10 Act of 1974), in consultation with the Secretary of
11 the Treasury, shall provide for expedited review of
12 such denial. An individual shall be entitled to such
13 review upon application to such Secretary in such
14 form and manner as shall be provided by such Sec-
15 retary. Such Secretary shall make a determination
16 regarding such individual's eligibility within 15 busi-
17 ness days after receipt of such individual's applica-
18 tion for review under this paragraph. Either Sec-
19 retary's determination upon review of the denial
20 shall be de novo and shall be the final determination
21 of such Secretary. A reviewing court shall grant def-
22 erence to such Secretary's determination. The provi-
23 sions of this paragraph, paragraphs (1) through (4),
24 and paragraph (7) shall be treated as provisions of
25 title I of the Employee Retirement Income Security

1 Act of 1974 for purposes of part 5 of subtitle B of
2 such title.

3 (6) DISREGARD OF SUBSIDIES FOR PURPOSES
4 OF FEDERAL AND STATE PROGRAMS.—Notwith-
5 standing any other provision of law, any premium
6 reduction with respect to an assistance eligible indi-
7 vidual under this subsection shall not be considered
8 income or resources in determining eligibility for, or
9 the amount of assistance or benefits provided under,
10 any other public benefit provided under Federal law
11 or the law of any State or political subdivision there-
12 of.

13 (7) NOTICES TO INDIVIDUALS.—

14 (A) GENERAL NOTICE.—

15 (i) IN GENERAL.—In the case of no-
16 tices provided under section 606(a)(4) of
17 the Employee Retirement Income Security
18 Act of 1974 (29 U.S.C. 1166(4)), section
19 4980B(f)(6)(D) of the Internal Revenue
20 Code of 1986, section 2206(4) of the Pub-
21 lic Health Service Act (42 U.S.C. 300bb-
22 6(4)), or section 8905a(f)(2)(A) of title 5,
23 United States Code, with respect to indi-
24 viduals who, during the period described in
25 paragraph (3)(A), become entitled to elect

1 COBRA continuation coverage, the re-
2 quirements of such sections shall not be
3 treated as met unless such notices include
4 an additional notification to the recipient
5 of—

6 (I) the availability of premium
7 reduction with respect to such cov-
8 erage under this subsection, and

9 (II) the option to enroll in dif-
10 ferent coverage if the employer per-
11 mits assistance eligible individuals to
12 elect enrollment in different coverage
13 (as described in paragraph (1)(B)).

14 (ii) ALTERNATIVE NOTICE.—In the
15 case of COBRA continuation coverage to
16 which the notice provision under such sec-
17 tions does not apply, the Secretary of
18 Labor, in consultation with the Secretary
19 of the Treasury and the Secretary of
20 Health and Human Services, shall, in con-
21 sultation with administrators of the group
22 health plans (or other entities) that provide
23 or administer the COBRA continuation
24 coverage involved, provide rules requiring
25 the provision of such notice.

1 (iii) FORM.—The requirement of the
2 additional notification under this subpara-
3 graph may be met by amendment of exist-
4 ing notice forms or by inclusion of a sepa-
5 rate document with the notice otherwise
6 required.

7 (B) SPECIFIC REQUIREMENTS.—Each ad-
8 ditional notification under subparagraph (A)
9 shall include—

10 (i) the forms necessary for estab-
11 lishing eligibility for premium reduction
12 under this subsection,

13 (ii) the name, address, and telephone
14 number necessary to contact the plan ad-
15 ministrator and any other person main-
16 taining relevant information in connection
17 with such premium reduction,

18 (iii) a description of the extended elec-
19 tion period provided for in paragraph
20 (4)(A),

21 (iv) a description of the obligation of
22 the qualified beneficiary under paragraph
23 (2)(C) to notify the plan providing continu-
24 ation coverage of eligibility for subsequent
25 coverage under another group health plan

1 or eligibility for benefits under title XVIII
2 of the Social Security Act and the penalty
3 provided under section 6720C of the Inter-
4 nal Revenue Code of 1986 for failure to so
5 notify the plan,

6 (v) a description, displayed in a
7 prominent manner, of the qualified bene-
8 ficiary's right to a reduced premium and
9 any conditions on entitlement to the re-
10 duced premium, and

11 (vi) a description of the option of the
12 qualified beneficiary to enroll in different
13 coverage if the employer permits such ben-
14 eficiary to elect to enroll in such different
15 coverage under paragraph (1)(B).

16 (C) NOTICE IN CONNECTION WITH EX-
17 TENDED ELECTION PERIODS.—In the case of
18 any assistance eligible individual (or any indi-
19 vidual described in paragraph (4)(A)) who be-
20 came entitled to elect COBRA continuation cov-
21 erage before the date of the enactment of this
22 Act, the administrator of the group health plan
23 (or other entity) involved shall provide (within
24 60 days after the date of enactment of this Act)
25 for the additional notification required to be

1 provided under subparagraph (A) and failure to
2 provide such notice shall be treated as a failure
3 to meet the notice requirements under the ap-
4 plicable COBRA continuation provision.

5 (D) MODEL NOTICES.—Not later than 30
6 days after the date of enactment of this Act—

7 (i) the Secretary of Labor, in con-
8 sultation with the Secretary of the Treas-
9 ury and the Secretary of Health and
10 Human Services, shall prescribe models for
11 the additional notification required under
12 this paragraph (other than the additional
13 notification described in clause (ii)), and

14 (ii) in the case of any additional noti-
15 fication provided pursuant to subpara-
16 graph (A) under section 8905a(f)(2)(A) of
17 title 5, United States Code, the Office of
18 Personnel Management shall prescribe a
19 model for such additional notification.

20 (8) REGULATIONS.—The Secretary of the
21 Treasury may prescribe such regulations or other
22 guidance as may be necessary or appropriate to
23 carry out the provisions of this subsection, including
24 the prevention of fraud and abuse under this sub-
25 section, except that the Secretary of Labor and the

1 Secretary of Health and Human Services may pre-
2 scribe such regulations (including interim final regu-
3 lations) or other guidance as may be necessary or
4 appropriate to carry out the provisions of para-
5 graphs (5), (7), and (9).

6 (9) OUTREACH.—The Secretary of Labor, in
7 consultation with the Secretary of the Treasury and
8 the Secretary of Health and Human Services, shall
9 provide outreach consisting of public education and
10 enrollment assistance relating to premium reduction
11 provided under this subsection. Such outreach shall
12 target employers, group health plan administrators,
13 public assistance programs, States, insurers, and
14 other entities as determined appropriate by such
15 Secretaries. Such outreach shall include an initial
16 focus on those individuals electing continuation cov-
17 erage who are referred to in paragraph (7)(C). In-
18 formation on such premium reduction, including en-
19 rollment, shall also be made available on websites of
20 the Departments of Labor, Treasury, and Health
21 and Human Services.

22 (10) DEFINITIONS.—For purposes of this sec-
23 tion—

24 (A) ADMINISTRATOR.—The term “admin-
25 istrator” has the meaning given such term in

1 section 3(16)(A) of the Employee Retirement
2 Income Security Act of 1974.

3 (B) COBRA CONTINUATION COVERAGE.—

4 The term “COBRA continuation coverage”
5 means continuation coverage provided pursuant
6 to part 6 of subtitle B of title I of the Em-
7 ployee Retirement Income Security Act of 1974
8 (other than under section 609), title XXII of
9 the Public Health Service Act, section 4980B of
10 the Internal Revenue Code of 1986 (other than
11 subsection (f)(1) of such section insofar as it
12 relates to pediatric vaccines), or section 8905a
13 of title 5, United States Code, or under a State
14 program that provides comparable continuation
15 coverage. Such term does not include coverage
16 under a health flexible spending arrangement
17 under a cafeteria plan within the meaning of
18 section 125 of the Internal Revenue Code of
19 1986.

20 (C) COBRA CONTINUATION PROVISION.—

21 The term “COBRA continuation provision”
22 means the provisions of law described in sub-
23 paragraph (B).

24 (D) COVERED EMPLOYEE.—The term

25 “covered employee” has the meaning given such

1 term in section 607(2) of the Employee Retirement
2 Income Security Act of 1974.

3 (E) QUALIFIED BENEFICIARY.—The term
4 “qualified beneficiary” has the meaning given
5 such term in section 607(3) of the Employee
6 Retirement Income Security Act of 1974.

7 (F) GROUP HEALTH PLAN.—The term
8 “group health plan” has the meaning given
9 such term in section 607(1) of the Employee
10 Retirement Income Security Act of 1974.

11 (G) STATE.—The term “State” includes
12 the District of Columbia, the Commonwealth of
13 Puerto Rico, the Virgin Islands, Guam, Amer-
14 ican Samoa, and the Commonwealth of the
15 Northern Mariana Islands.

16 (H) PERIOD OF COVERAGE.—Any ref-
17 erence in this subsection to a period of coverage
18 shall be treated as a reference to a monthly or
19 shorter period of coverage with respect to which
20 premiums are charged with respect to such cov-
21 erage.

22 (11) REPORTS.—

23 (A) INTERIM REPORT.—The Secretary of
24 the Treasury shall submit an interim report to
25 the Committee on Education and Labor, the

1 Committee on Ways and Means, and the Com-
2 mittee on Energy and Commerce of the House
3 of Representatives and the Committee on
4 Health, Education, Labor, and Pensions and
5 the Committee on Finance of the Senate re-
6 garding the premium reduction provided under
7 this subsection that includes—

8 (i) the number of individuals provided
9 such assistance as of the date of the re-
10 port; and

11 (ii) the total amount of expenditures
12 incurred (with administrative expenditures
13 noted separately) in connection with such
14 assistance as of the date of the report.

15 (B) FINAL REPORT.—As soon as prac-
16 ticable after the last period of COBRA continu-
17 ation coverage for which premium reduction is
18 provided under this section, the Secretary of the
19 Treasury shall submit a final report to each
20 committee referred to in subparagraph (A) that
21 includes—

22 (i) the number of individuals provided
23 premium reduction under this section;

1 (ii) the average dollar amount
2 (monthly and annually) of premium reduc-
3 tions provided to such individuals; and

4 (iii) the total amount of expenditures
5 incurred (with administrative expenditures
6 noted separately) in connection with pre-
7 mium reduction under this section.

8 (12) COBRA PREMIUM ASSISTANCE.—

9 (A) IN GENERAL.—Subchapter B of chap-
10 ter 65 of the Internal Revenue Code of 1986 is
11 amended by adding at the end the following
12 new section:

13 **“SEC. 6431. COBRA PREMIUM ASSISTANCE.**

14 “(a) IN GENERAL.—The person to whom premiums
15 are payable under COBRA continuation coverage shall be
16 reimbursed as provided in subsection (c) for the amount
17 of premiums not paid by assistance eligible individuals by
18 reason of section 4 of the Health Care Protection Act.

19 “(b) PERSON ENTITLED TO REIMBURSEMENT.—For
20 purposes of subsection (a), except as otherwise provided
21 by the Secretary, the person to whom premiums are pay-
22 able under COBRA continuation coverage shall be treated
23 as being—

24 “(1) in the case of any group health plan which
25 is a multiemployer plan (as defined in section 3(37)

1 of the Employee Retirement Income Security Act of
2 1974), the plan,

3 “(2) in the case of any group health plan not
4 described in paragraph (1)—

5 “(A) which is subject to the COBRA con-
6 tinuation provisions contained in—

7 “(i) the Internal Revenue Code of
8 1986,

9 “(ii) the Employee Retirement Income
10 Security Act of 1974,

11 “(iii) the Public Health Service Act,
12 or

13 “(iv) title 5, United States Code, or

14 “(B) under which some or all of the cov-
15 erage is not provided by insurance,
16 the employer maintaining the plan, and

17 “(3) in the case of any group health plan not
18 described in paragraph (1) or (2), the insurer pro-
19 viding the coverage under the group health plan.

20 “(c) METHOD OF REIMBURSEMENT.—Except as oth-
21 erwise provided by the Secretary—

22 “(1) TREATMENT AS PAYMENT OF PAYROLL
23 TAXES.—Each person entitled to reimbursement
24 under subsection (a) (and filing a claim for such re-
25 imbursement at such time and in such manner as

1 the Secretary may require) shall be treated for pur-
2 poses of this title and section 1324(b)(2) of title 31,
3 United States Code, as having paid to the Secretary,
4 on the date that the assistance eligible individual's
5 premium payment is received, payroll taxes in an
6 amount equal to the portion of such reimbursement
7 which relates to such premium. To the extent that
8 the amount treated as paid under the preceding sen-
9 tence exceeds the amount of such person's liability
10 for such taxes, the Secretary shall credit or refund
11 such excess in the same manner as if it were an
12 overpayment of such taxes.

13 “(2) OVERSTATEMENTS.—Any overstatement of
14 the reimbursement to which a person is entitled
15 under this section (and any amount paid by the Sec-
16 retary as a result of such overstatement) shall be
17 treated as an underpayment of payroll taxes by such
18 person and may be assessed and collected by the
19 Secretary in the same manner as payroll taxes.

20 “(3) REIMBURSEMENT CONTINGENT ON PAY-
21 MENT OF REMAINING PREMIUM.—No reimbursement
22 may be made under this section to a person with re-
23 spect to any assistance eligible individual until after
24 the reduced premium required under section

1 4(a)(1)(A) of the Health Care Protection Act with
2 respect to such individual has been received.

3 “(d) DEFINITIONS.—For purposes of this section—

4 “(1) PAYROLL TAXES.—The term ‘payroll
5 taxes’ means—

6 “(A) amounts required to be deducted and
7 withheld for the payroll period under section
8 3402 (relating to wage withholding),

9 “(B) amounts required to be deducted for
10 the payroll period under section 3102 (relating
11 to FICA employee taxes), and

12 “(C) amounts of the taxes imposed for the
13 payroll period under section 3111 (relating to
14 FICA employer taxes).

15 “(2) PERSON.—The term ‘person’ includes any
16 governmental entity.

17 “(e) REPORTING.—Each person entitled to reim-
18 bursement under subsection (a) for any period shall sub-
19 mit such reports (at such time and in such manner) as
20 the Secretary may require, including—

21 “(1) an attestation of involuntary termination
22 of employment for each covered employee on the
23 basis of whose termination entitlement to reimburse-
24 ment is claimed under subsection (a),

1 “(2) a report of the amount of payroll taxes off-
2 set under subsection (a) for the reporting period and
3 the estimated offsets of such taxes for the subse-
4 quent reporting period in connection with reimburse-
5 ments under subsection (a), and

6 “(3) a report containing the TINs of all covered
7 employees, the amount of subsidy reimbursed with
8 respect to each covered employee and qualified bene-
9 ficiaries, and a designation with respect to each cov-
10 ered employee as to whether the subsidy reimburse-
11 ment is for coverage of 1 individual or 2 or more in-
12 dividuals.

13 “(f) REGULATIONS.—The Secretary shall issue such
14 regulations or other guidance as may be necessary or ap-
15 propriate to carry out this section, including—

16 “(1) the requirement to report information or
17 the establishment of other methods for verifying the
18 correct amounts of reimbursements under this sec-
19 tion, and

20 “(2) the application of this section to group
21 health plans that are multiemployer plans (as de-
22 fined in section 3(37) of the Employee Retirement
23 Income Security Act of 1974).”.

24 (B) SOCIAL SECURITY TRUST FUNDS HELD
25 HARMLESS.—In determining any amount trans-

ferred or appropriated to any fund under the Social Security Act, section 6431 of the Internal Revenue Code of 1986 shall not be taken into account.

(C) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 6431. COBRA premium assistance.”.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(E) SPECIAL RULE.—

(i) IN GENERAL.—In the case of an assistance eligible individual who pays, with respect to the first period of COBRA continuation coverage to which subsection (a)(1)(A) applies or the immediately subsequent period, the full premium amount for such coverage, the person to whom such payment is payable shall—

(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (a)(1)(A); or

1 (II) provide credit to the indi-
2 vidual for such amount in a manner
3 that reduces one or more subsequent
4 premium payments that the individual
5 is required to pay under such sub-
6 section for the coverage involved.

7 (ii) REIMBURSING EMPLOYER.—A
8 person to which clause (i) applies shall be
9 reimbursed as provided for in section 6431
10 of the Internal Revenue Code of 1986 for
11 any payment made, or credit provided, to
12 the employee under such clause.

13 (iii) PAYMENT OR CREDITS.—Unless
14 it is reasonable to believe that the credit
15 for the excess payment in clause (i)(II) will
16 be used by the assistance eligible individual
17 within 180 days of the date on which the
18 person receives from the individual the
19 payment of the full premium amount, a
20 person to which clause (i) applies shall
21 make the payment required under such
22 clause to the individual within 60 days of
23 such payment of the full premium amount.
24 If, as of any day within the 180-day pe-
25 riod, it is no longer reasonable to believe

1 that the credit will be used during that pe-
 2 riod, payment equal to the remainder of
 3 the credit outstanding shall be made to the
 4 individual within 60 days of such day.

5 (13) PENALTY FOR FAILURE TO NOTIFY
 6 HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR
 7 PREMIUM ASSISTANCE.—

8 (A) IN GENERAL.—Part I of subchapter B
 9 of chapter 68 of the Internal Revenue Code of
 10 1986 is amended by adding at the end the fol-
 11 lowing new section:

12 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
 13 **PLAN OF CESSATION OF ELIGIBILITY FOR**
 14 **COBRA PREMIUM ASSISTANCE.**

15 “(a) IN GENERAL.—Any person required to notify a
 16 group health plan under section 4(a)(2)(C) of the Health
 17 Care Protection Act who fails to make such a notification
 18 at such time and in such manner as the Secretary of
 19 Labor may require shall pay a penalty of 110 percent of
 20 the premium reduction provided under such section after
 21 termination of eligibility under such subsection.

22 “(b) REASONABLE CAUSE EXCEPTION.—No penalty
 23 shall be imposed under subsection (a) with respect to any
 24 failure if it is shown that such failure is due to reasonable
 25 cause and not to willful neglect.”.

1 (B) CLERICAL AMENDMENT.—The table of
 2 sections of part I of subchapter B of chapter 68
 3 of such Code is amended by adding at the end
 4 the following new item:

“Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility
 for COBRA premium assistance.”.

5 (C) EFFECTIVE DATE.—The amendments
 6 made by this paragraph shall apply to failures
 7 occurring after the date of the enactment of
 8 this Act.

9 (14) COORDINATION WITH HCTC.—

10 (A) IN GENERAL.—Subsection (g) of sec-
 11 tion 35 of the Internal Revenue Code of 1986
 12 is amended by redesignating paragraph (9) as
 13 paragraph (10) and inserting after paragraph
 14 (8) the following new paragraph:

15 “(9) COBRA PREMIUM ASSISTANCE.—In the
 16 case of an assistance eligible individual who receives
 17 premium reduction for COBRA continuation cov-
 18 erage under section 4(a) of the Health Care Protec-
 19 tion Act for any month during the taxable year, such
 20 individual shall not be treated as an eligible indi-
 21 vidual, a certified individual, or a qualifying family
 22 member for purposes of this section or section 7527
 23 with respect to such month.”.

1 (B) EFFECTIVE DATE.—The amendment
 2 made by subparagraph (A) shall apply to tax-
 3 able years ending after the date of the enact-
 4 ment of this Act.

5 (15) EXCLUSION OF COBRA PREMIUM ASSIST-
 6 ANCE FROM GROSS INCOME.—

7 (A) IN GENERAL.—Part III of subchapter
 8 B of chapter 1 of the Internal Revenue Code of
 9 1986 is amended by inserting after section
 10 139B the following new section:

11 **“SEC. 139C. COBRA PREMIUM ASSISTANCE.**

12 “In the case of an assistance eligible individual (as
 13 defined in section 4 of the Health Care Protection Act),
 14 gross income does not include any premium reduction pro-
 15 vided under subsection (a) of such section.”.

16 (B) CLERICAL AMENDMENT.—The table of
 17 sections for part III of subchapter B of chapter
 18 1 of such Code is amended by inserting after
 19 the item relating to section 139B the following
 20 new item:

“Sec. 139C. COBRA premium assistance.”.

21 (C) EFFECTIVE DATE.—The amendments
 22 made by this paragraph shall apply to taxable
 23 years ending after the date of the enactment of
 24 this Act.

1 (b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-
2 INCOME INDIVIDUALS.—

3 (1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME
4 INDIVIDUALS.—If—

5 (A) premium assistance is provided under
6 this section with respect to any COBRA con-
7 tinuation coverage which covers the taxpayer,
8 the taxpayer's spouse, or any dependent (within
9 the meaning of section 152 of the Internal Rev-
10 enue Code of 1986, determined without regard
11 to subsections (b)(1), (b)(2), and (d)(1)(B)
12 thereof) of the taxpayer during any portion of
13 the taxable year, and

14 (B) the taxpayer's modified adjusted gross
15 income for such taxable year exceeds \$125,000
16 (\$250,000 in the case of a joint return),
17 then the tax imposed by chapter 1 of such Code with
18 respect to the taxpayer for such taxable year shall
19 be increased by the amount of such assistance.

20 (2) PHASE-IN OF RECAPTURE.—

21 (A) IN GENERAL.—In the case of a tax-
22 payer whose modified adjusted gross income for
23 the taxable year does not exceed \$145,000
24 (\$290,000 in the case of a joint return), the in-
25 crease in the tax imposed under paragraph (1)

1 shall not exceed the phase-in percentage of such
2 increase (determined without regard to this
3 paragraph).

4 (B) PHASE-IN PERCENTAGE.—For pur-
5 poses of this subsection, the term “phase-in
6 percentage” means the ratio (expressed as a
7 percentage) obtained by dividing—

8 (i) the excess of described in subpara-
9 graph (B) of paragraph (1), by

10 (ii) \$20,000 (\$40,000 in the case of a
11 joint return).

12 (3) OPTION FOR HIGH-INCOME INDIVIDUALS TO
13 WAIVE ASSISTANCE AND AVOID RECAPTURE.—Not-
14 withstanding subsection (a)(3), an individual shall
15 not be treated as an assistance eligible individual for
16 purposes of this section and section 6431 of the In-
17 ternal Revenue Code of 1986 if such individual—

18 (A) makes a permanent election (at such
19 time and in such form and manner as the Sec-
20 retary of the Treasury may prescribe) to waive
21 the right to the premium assistance provided
22 under this section, and

23 (B) notifies the entity to whom premiums
24 are reimbursed under section 6431(a) of such
25 Code of such election.

1 (4) MODIFIED ADJUSTED GROSS INCOME.—For
2 purposes of this subsection, the term “modified ad-
3 justed gross income” means the adjusted gross in-
4 come (as defined in section 62 of the Internal Rev-
5 enue Code of 1986) of the taxpayer for the taxable
6 year increased by any amount excluded from gross
7 income under section 911, 931, or 933 of such Code.

8 (5) CREDITS NOT ALLOWED AGAINST TAX,
9 ETC.—For purposes determining regular tax liability
10 under section 26(b) of such Code, the increase in tax
11 under this subsection shall not be treated as a tax
12 imposed under chapter 1 of such Code.

13 (6) REGULATIONS.—The Secretary of the
14 Treasury shall issue such regulations or other guid-
15 ance as are necessary or appropriate to carry out
16 this subsection, including requirements that the enti-
17 ty to whom premiums are reimbursed under section
18 6431(a) of the Internal Revenue Code of 1986 re-
19 port to the Secretary, and to each assistance eligible
20 individual, the amount of premium assistance pro-
21 vided under subsection (a) with respect to each such
22 individual.

1 (7) EFFECTIVE DATE.—The provisions of this
2 subsection shall apply to taxable years ending after
3 the date of the enactment of this Act.

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