

116TH CONGRESS
2D SESSION

H. R. 6514

To provide premium assistance for COBRA continuation coverage and furloughed continuation coverage for individuals and their families during the COVID–19 emergency period and 180-days thereafter, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2020

Mr. SCOTT of Virginia (for himself, Mrs. DINGELL, and Mr. HORSFORD) 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 provide premium assistance for COBRA continuation coverage and furloughed continuation coverage for individuals and their families during the COVID–19 emergency period and 180-days thereafter, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Worker Health Cov-
5 erage Protection Act”.

1 **SEC. 2. PRESERVING HEALTH BENEFITS FOR WORKERS.**

2 (a) PREMIUM ASSISTANCE FOR COBRA CONTINU-
3 ATION COVERAGE AND FURLOUGHED CONTINUATION
4 COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.—

5 (1) PROVISION OF PREMIUM ASSISTANCE.—

6 (A) REDUCTION OF PREMIUMS PAY-
7 ABLE.—

8 (i) COBRA CONTINUATION COV-
9 ERAGE.—In the case of any premium for a
10 period of coverage during the period begin-
11 ning on March 1, 2020, and ending on the
12 last day of the 180-day period succeeding
13 the emergency period described in section
14 1135(g)(1)(B) of the Social Security Act
15 (42 U.S.C. 1320b–5(g)(1)(B)) for COBRA
16 continuation coverage with respect to any
17 assistance eligible individual described in
18 paragraph (3)(A), such individual shall be
19 treated for purposes of any COBRA con-
20 tinuation provision as having paid the
21 amount of such premium if such individual
22 pays (or a person other than such individ-
23 ual’s employer pays on behalf of such indi-
24 vidual) 0 percent of the amount of such
25 premium (as determined without regard to
26 this subsection).

(ii) FURLOUGHED CONTINUATION
COVERAGE.—In the case of any premium
for a period of coverage during the period
beginning on March 1, 2020, and ending
on the last day of the 180-day period suc-
ceeding the emergency period described in
section 1135(g)(1)(B) of the Social Secu-
rity Act (42 U.S.C. 1320b–5(g)(1)(B)) for
coverage under a group health plan with
respect to any assistance eligible individual
described in paragraph (3)(B), such indi-
vidual shall be treated for purposes of cov-
erage under the plan offered by the em-
ployer involved in which the individual is
enrolled as having paid the amount of such
premium if such individual pays (or a per-
son other than such individual’s employer
pays on behalf of such individual) 0 per-
cent of the amount of such premium (as
determined without regard to this sub-
section).

(B) PLAN ENROLLMENT OPTION.—

(i) IN GENERAL.—Notwithstanding
the COBRA continuation provisions, any
assistance eligible individual who is en-

1 rolled in a group health plan offered by a
2 plan sponsor may, not later than 90 days
3 after the date of notice of the plan enroll-
4 ment option described in this subpara-
5 graph, elect to enroll in coverage under a
6 plan offered by such plan sponsor, that is
7 different than coverage under the plan in
8 which such individual was enrolled at the
9 time—

10 (I) in the case of any assistance
11 eligible individual described in para-
12 graph (3)(A), the qualifying event
13 specified in section 603(2) of the Em-
14 ployee Retirement Income Security
15 Act of 1974, section 4980B(f)(3)(B)
16 of the Internal Revenue Code of 1986,
17 section 2203(2) of the Public Health
18 Service Act, or section 8905a of title
19 5, United States Code, occurred, and
20 such coverage shall be treated as
21 COBRA continuation coverage for
22 purposes of the applicable COBRA
23 continuation coverage provision; or

24 (II) in the case of any assistance
25 eligible individual described in para-

1 graph (3)(B), such individual was
2 subject to a furlough.

3 (ii) REQUIREMENTS.—Any assistance
4 eligible individual may elect to enroll in
5 different coverage as described in clause (i)
6 only if—

7 (I) the employer involved has
8 made a determination that such em-
9 ployer will permit such assistance eli-
10 gible individual to enroll in different
11 coverage as provided under this sub-
12 paragraph;

13 (II) the premium for such dif-
14 ferent coverage does not exceed the
15 premium for coverage in which such
16 individual was enrolled at the time
17 such qualifying event occurred;

18 (III) the different coverage in
19 which the individual elects to enroll is
20 coverage that is also offered to the ac-
21 tive employees of the employer, who
22 are not furloughed, at the time at
23 which such election is made; and

1 (IV) the different coverage in
2 which the individual elects to enroll is
3 not—

4 (aa) coverage that provides
5 only dental, vision, counseling, or
6 referral services (or a combina-
7 tion of such services);

8 (bb) a qualified small em-
9 ployer health reimbursement ar-
10 rangement (as defined in section
11 9831(d)(2) of the Internal Rev-
12 enue Code of 1986);

13 (cc) a flexible spending ar-
14 rangement (as defined in section
15 106(c)(2) of the Internal Rev-
16 enue Code of 1986); or

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

1 (C) PREMIUM REIMBURSEMENT.—For pro-
2 visions providing the payment of such premium,
3 see section 6432 of the Internal Revenue Code
4 of 1986, as added by paragraph (14).

5 (2) LIMITATION OF PERIOD OF PREMIUM AS-
6 SISTANCE.—

7 (A) ELIGIBILITY FOR ADDITIONAL COV-
8 ERAGE.—Paragraph (1)(A) shall not apply with
9 respect to—

10 (i) any assistance eligible individual
11 described in paragraph (3)(A) for months
12 of coverage beginning on or after the ear-
13 lier of—

14 (I) the first date that such indi-
15 vidual is covered under any other
16 group health plan (other than cov-
17 erage consisting of only dental, vision,
18 counseling, or referral services (or a
19 combination thereof), coverage under
20 a flexible spending arrangement (as
21 defined in section 106(c)(2) of the In-
22 ternal Revenue Code of 1986), cov-
23 erage of treatment that is furnished
24 in an on-site medical facility main-
25 tained by the employer and that con-

sists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof), eligible for benefits under title XVIII of the Social Security Act, or covered under a qualified health plan (as defined in section 1301(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18021(a))) offered through an Exchange established under title I of the Patient Protection and Affordable Care Act (42 U.S.C. 18001 et seq.); or

(II) the earliest of—

(aa) the date which is 15 months after the first day of the first month that paragraph (1)(A)(i) applies with respect to such individual;

(bb) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision; or

1 (cc) the date following the
2 expiration of the period of con-
3 tinuation coverage allowed under
4 paragraph (4)(B)(ii); or

5 (ii) any assistance eligible individual
6 described in paragraph (3)(B) for months
7 of coverage beginning on or after the ear-
8 lier of—

9 (I) the first date that such indi-
10 vidual is covered under any other
11 group health plan (other than cov-
12 erage consisting of only dental, vision,
13 counseling, or referral services (or a
14 combination thereof), coverage under
15 a flexible spending arrangement (as
16 defined in section 106(c)(2) of the In-
17 ternal Revenue Code of 1986), cov-
18 erage of treatment that is furnished
19 in an on-site medical facility main-
20 tained by the employer and that con-
21 sists primarily of first-aid services,
22 prevention and wellness care, or simi-
23 lar care (or a combination thereof)),
24 eligible for benefits under title XVIII
25 of the Social Security Act, or covered

1 under a qualified health plan (as de-
2 fined in section 1301(a) of the Patient
3 Protection and Affordable Care Act
4 (42 U.S.C. 18021(a))) offered
5 through an Exchange established
6 under title I of the Patient Protection
7 and Affordable Care Act (42 U.S.C.
8 18001 et seq.);

9 (II) the date which is 15 months
10 after the first day of the first month
11 that paragraph (1)(A)(ii) applies with
12 respect to such individual; or

13 (III) the first date that such in-
14 dividual is not subject to a furlough.

15 (B) NOTIFICATION REQUIREMENT.—Any
16 assistance eligible individual shall notify the
17 group health plan with respect to which para-
18 graph (1)(A) applies if such paragraph ceases
19 to apply by reason of clause (i)(I) or (ii)(I) of
20 subparagraph (A) (as applicable). Such notice
21 shall be provided to the group health plan in
22 such time and manner as may be specified by
23 the Secretary of Labor.

24 (C) SPECIAL ENROLLMENT PERIOD FOL-
25 LOWING EXPIRATION OF PREMIUM ASSIST-

1 ANCE.—Notwithstanding section 1311 of the
2 Patient Protection and Affordable Care Act (42
3 U.S.C. 18031), the expiration of premium as-
4 sistance pursuant to a limitation specified
5 under subparagraph (A) shall be treated as a
6 qualifying event for which any assistance eligi-
7 ble individual is eligible to enroll in a qualified
8 health plan offered through an Exchange under
9 title I of such Act (42 U.S.C. 18001 et seq.)
10 during a special enrollment period.

11 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For
12 purposes of this section, the term “assistance eligible
13 individual” means, at any time during the period be-
14 ginning on March 1, 2020, and ending on the last
15 day of the 180-day period succeeding the emergency
16 period described in section 1135(g)(1)(B) of the So-
17 cial Security Act (42 U.S.C. 1320b–5(g)(1)(B))—

18 (A) any individual that is a qualified bene-
19 ficiary that—

20 (i) is eligible for COBRA continuation
21 coverage by reason of a qualifying event
22 specified in section 603(2) of the Employee
23 Retirement Income Security Act of 1974,
24 section 4980B(f)(3)(B) of the Internal
25 Revenue Code of 1986, section 2203(2) of

1 the Public Health Service Act, or section
2 8905a of title 5, United States Code; and

3 (ii) elects such coverage; or

4 (B) any individual that is subject to a fur-
5 lough that remains eligible for coverage under
6 a group health plan.

7 (4) EXTENSION OF ELECTION PERIOD AND EF-
8 FECT ON COVERAGE.—

9 (A) IN GENERAL.—For purposes of apply-
10 ing section 605(a) of the Employee Retirement
11 Income Security Act of 1974, section
12 4980B(f)(5)(A) of the Internal Revenue Code
13 of 1986, section 2205(a) of the Public Health
14 Service Act, and section 8905a(c)(2) of title 5,
15 United States Code, in the case of—

16 (i) an individual who does not have an
17 election of COBRA continuation coverage
18 in effect on the date of the enactment of
19 this Act but who would be an assistance el-
20 igible individual described in paragraph
21 (3)(A) if such election were so in effect; or

22 (ii) an individual who elected COBRA
23 continuation coverage on or after March 1,
24 2020, and discontinued from such coverage

1 before the date of the enactment of this
2 Act,
3 such individual may elect the COBRA continu-
4 ation coverage under the COBRA continuation
5 coverage provisions containing such sections
6 during the period beginning on the date of the
7 enactment of this Act and ending 60 days after
8 the date on which the notification required
9 under paragraph (7)(C) is provided to such in-
10 dividual.

11 (B) COMMENCEMENT OF COBRA CONTINU-
12 ATION COVERAGE.—Any COBRA continuation
13 coverage elected by a qualified beneficiary dur-
14 ing an extended election period under subpara-
15 graph (A)—

16 (i) shall apply as if such qualified ben-
17 eficiary had been covered as of the date of
18 a qualifying event specified in section
19 603(2) of the Employee Retirement In-
20 come Security Act of 1974, section
21 4980B(f)(3)(B) of the Internal Revenue
22 Code of 1986, section 2203(2) of the Pub-
23 lic Health Service Act, or section 8905a of
24 title 5, United States Code (including the
25 treatment of premium payments under

1 paragraph (1)(A) and any cost-sharing re-
2 quirements for items and services under a
3 group health plan); and

4 (ii) shall not extend beyond the period
5 of COBRA continuation coverage that
6 would have been required under the appli-
7 cable COBRA continuation coverage provi-
8 sion if the coverage had been elected as re-
9 quired under such provision.

10 (5) EXPEDITED REVIEW OF DENIALS OF PRE-
11 MIUM ASSISTANCE.—In any case in which an indi-
12 vidual requests treatment as an assistance eligible
13 individual described in subparagraph (A) or (B) of
14 paragraph (3) and is denied such treatment by the
15 group health plan, the Secretary of Labor (or the
16 Secretary of Health and Human Services in connec-
17 tion with COBRA continuation coverage which is
18 provided other than pursuant to part 6 of subtitle B
19 of title I of the Employee Retirement Income Secu-
20 rity Act of 1974), in consultation with the Secretary
21 of the Treasury, shall provide for expedited review of
22 such denial. An individual shall be entitled to such
23 review upon application to such Secretary in such
24 form and manner as shall be provided by such Sec-
25 retary. Such Secretary shall make a determination

1 regarding such individual's eligibility within 15 busi-
2 ness days after receipt of such individual's applica-
3 tion for review under this paragraph. Either Sec-
4 retary's determination upon review of the denial
5 shall be de novo and shall be the final determination
6 of such Secretary. A reviewing court shall grant def-
7 erence to such Secretary's determination. The provi-
8 sions of this paragraph, paragraphs (1) through (4),
9 and paragraphs (7) through (9) shall be treated as
10 provisions of title I of the Employee Retirement In-
11 come Security Act of 1974 for purposes of part 5 of
12 subtitle B of such title.

13 (6) DISREGARD OF SUBSIDIES FOR PURPOSES
14 OF FEDERAL AND STATE PROGRAMS.—Notwith-
15 standing any other provision of law, any premium
16 reduction with respect to an assistance eligible indi-
17 vidual under this subsection shall not be considered
18 income or resources in determining eligibility for, or
19 the amount of assistance or benefits provided under,
20 any other public benefit provided under Federal law
21 or the law of any State or political subdivision there-
22 of.

23 (7) COBRA-SPECIFIC NOTICE.—

24 (A) GENERAL NOTICE.—

1 (i) IN GENERAL.—In the case of no-
2 tices provided under section 606(a)(4) of
3 the Employee Retirement Income Security
4 Act of 1974 (29 U.S.C. 1166(4)), section
5 4980B(f)(6)(D) of the Internal Revenue
6 Code of 1986, section 2206(4) of the Pub-
7 lic Health Service Act (42 U.S.C. 300bb-
8 6(4)), or section 8905a(f)(2)(A) of title 5,
9 United States Code, with respect to indi-
10 viduals who, during the period described in
11 paragraph (3), become entitled to elect
12 COBRA continuation coverage, the re-
13 quirements of such sections shall not be
14 treated as met unless such notices include
15 an additional notification to the recipient a
16 written notice in clear and understandable
17 language of—

18 (I) the availability of premium
19 reduction with respect to such cov-
20 erage under this subsection; and

21 (II) the option to enroll in dif-
22 ferent coverage if the employer per-
23 mits assistance eligible individuals de-
24 scribed in paragraph (3)(A) to elect

1 enrollment in different coverage (as
2 described in paragraph (1)(B)).

3 (ii) ALTERNATIVE NOTICE.—In the
4 case of COBRA continuation coverage to
5 which the notice provision under such sec-
6 tions does not apply, the Secretary of
7 Labor, in consultation with the Secretary
8 of the Treasury and the Secretary of
9 Health and Human Services, shall, in con-
10 sultation with administrators of the group
11 health plans (or other entities) that provide
12 or administer the COBRA continuation
13 coverage involved, provide rules requiring
14 the provision of such notice.

15 (iii) FORM.—The requirement of the
16 additional notification under this subpara-
17 graph may be met by amendment of exist-
18 ing notice forms or by inclusion of a sepa-
19 rate document with the notice otherwise
20 required.

21 (B) SPECIFIC REQUIREMENTS.—Each ad-
22 ditional notification under subparagraph (A)
23 shall include—

1 (i) the forms necessary for estab-
2 lishing eligibility for premium reduction
3 under this subsection;

4 (ii) the name, address, and telephone
5 number necessary to contact the plan ad-
6 ministrator and any other person main-
7 taining relevant information in connection
8 with such premium reduction;

9 (iii) a description of the extended elec-
10 tion period provided for in paragraph
11 (4)(A);

12 (iv) a description of the obligation of
13 the qualified beneficiary under paragraph
14 (2)(C) to notify the plan providing continu-
15 ation coverage of enrollment in subsequent
16 coverage under another group health plan
17 or a qualified health plan or eligibility for
18 benefits under title XVIII of the Social Se-
19 curity Act and the penalty provided under
20 section 6720C of the Internal Revenue
21 Code of 1986 for failure to so notify the
22 plan;

23 (v) a description, displayed in a
24 prominent manner, of the qualified bene-
25 ficiary's right to a reduced premium and

1 any conditions on entitlement to the re-
2 duced premium;

3 (vi) a description of the option of the
4 qualified beneficiary to enroll in different
5 coverage if the employer permits such ben-
6 eficiary to elect to enroll in such different
7 coverage under paragraph (1)(B); and

8 (vii) information regarding any Ex-
9 change established under title I of the Pa-
10 tient Protection and Affordable Care Act
11 (42 U.S.C. 18001 et seq.) through which a
12 qualified beneficiary may be eligible to en-
13 roll in a qualified health plan, including—

14 (I) the publicly accessible inter-
15 net website address for such Ex-
16 change;

17 (II) the publicly accessible inter-
18 net website address for the Find
19 Local Help directory maintained by
20 the Department of Health and
21 Human Services on the healthcare.gov
22 internet website (or a successor
23 website);

24 (III) a clear explanation that—

1 (aa) an individual who is eli-
2 gible for continuation coverage
3 may also be eligible to enroll,
4 with financial assistance, in a
5 qualified health plan offered
6 through such Exchange, but, in
7 the case that such individual
8 elects to enroll in such continu-
9 ation coverage and subsequently
10 elects to terminate such continu-
11 ation coverage before the period
12 of such continuation coverage ex-
13 pires, such termination does not
14 initiate a special enrollment pe-
15 riod (absent a qualifying event
16 specified in section 603(2) of the
17 Employee Retirement Income Se-
18 curity Act of 1974, section
19 4980B(f)(3)(B) of the Internal
20 Revenue Code of 1986, section
21 2203(2) of the Public Health
22 Service Act, or section 8905a of
23 title 5, United States Code, with
24 respect to such individual); and

1 (bb) an individual who elects
2 to enroll in continuation coverage
3 will remain eligible to enroll in a
4 qualified health plan offered
5 through such Exchange during
6 an open enrollment period and
7 may be eligible for financial as-
8 sistance with respect to enrolling
9 in such a qualified health plan;

10 (IV) information on consumer
11 protections with respect to enrolling in
12 a qualified health plan offered
13 through such Exchange, including the
14 requirement for such a qualified
15 health plan to provide coverage for es-
16 sential health benefits (as defined in
17 section 1302(b) of such Act (42
18 U.S.C. 18022(b))) and the require-
19 ments applicable to such a qualified
20 health plan under part A of title
21 XXVII of the Public Health Service
22 Act (42 U.S.C. 300gg et seq.);

23 (V) information on the avail-
24 ability of financial assistance with re-
25 spect to enrolling in a qualified health

1 plan, including the maximum income
2 limit for eligibility for a premium tax
3 credit under section 36B of the Inter-
4 nal Revenue Code of 1986; and

5 (VI) information on any special
6 enrollment periods during which any
7 assistance eligible individual described
8 in paragraph (3)(A)(i) may be eligible
9 to enroll, with financial assistance, in
10 a qualified health plan offered
11 through such Exchange (including a
12 special enrollment period for which an
13 individual may be eligible due to the
14 expiration of premium assistance pur-
15 suant to a limitation specified under
16 paragraph (2)(A)).

17 (C) NOTICE IN CONNECTION WITH EX-
18 TENDED ELECTION PERIODS.—In the case of
19 any assistance eligible individual described in
20 paragraph (3)(A) (or any individual described
21 in paragraph (4)(A)) who became entitled to
22 elect COBRA continuation coverage before the
23 date of the enactment of this Act, the adminis-
24 trator of the group health plan (or other entity)
25 involved shall provide (within 60 days after the

1 date of enactment of this Act) for the addi-
2 tional notification required to be provided under
3 subparagraph (A) and failure to provide such
4 notice shall be treated as a failure to meet the
5 notice requirements under the applicable
6 COBRA continuation provision.

7 (D) MODEL NOTICES.—Not later than 30
8 days after the date of enactment of this Act,
9 with respect to any assistance eligible individual
10 described in paragraph (3)(A)—

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

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

24 (8) FURLOUGH-SPECIFIC NOTICE.—

1 (A) IN GENERAL.—With respect to any as-
2 sistance eligible individual described in para-
3 graph (3)(B) who, during the period described
4 in such paragraph, becomes eligible for assist-
5 ance pursuant to paragraph (1)(A)(ii), the re-
6 quirements of section 606(a)(4) of the Em-
7 ployee Retirement Income Security Act of 1974
8 (29 U.S.C. 1166(4)), section 4980B(f)(6)(D) of
9 the Internal Revenue Code of 1986, section
10 2206(4) of the Public Health Service Act (42
11 U.S.C. 300bb–6(4)), or section 8905a(f)(2)(A)
12 of title 5, United States Code, shall not be
13 treated as met unless the group health plan ad-
14 ministrator, in accordance with the timing re-
15 quirement specified under subparagraph (B),
16 provides to the individual a written notice in
17 clear and understandable language of—

18 (i) the availability of premium reduc-
19 tion with respect to such coverage under
20 this subsection;

21 (ii) the option to enroll in different
22 coverage if the employer permits assistance
23 to paragraph (1)(B) for coverage under a
24 group health plan; and

1 (iii) the information specified under
2 paragraph (7)(B) (as applicable).

3 (B) TIMING SPECIFIED.—For purposes of
4 subparagraph (A), the timing requirement spec-
5 ified in this subparagraph is—

6 (i) with respect to such an individual
7 who is subject to a furlough during the pe-
8 riod beginning on March 1, 2020, and end-
9 ing on the date of the enactment of this
10 Act, 30 days after the date of such enact-
11 ment; and

12 (ii) with respect to such an individual
13 who is subject to a furlough during the pe-
14 riod beginning on the first day after the
15 date of the enactment of this Act and end-
16 ing on the last day of the 180-day period
17 succeeding the emergency period described
18 in section 1135(g)(1)(B) of the Social Se-
19 curity Act (42 U.S.C. 1320b–5(g)(1)(B)),
20 30 days after the date of such furlough.

21 (C) MODEL NOTICES.—Not later than 30
22 days after the date of enactment of this Act,
23 with respect to any assistance eligible individual
24 described in paragraph (3)(B)—

(i) the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the notification required under this paragraph (other than the notification described in clause (ii)); and

(ii) in the case of any notification provided pursuant to subparagraph (A) under section 8905a(f)(2)(A) of title 5, United States Code, the Office of Personnel Management shall prescribe a model for such notification.

(9) NOTICE OF EXPIRATION OF PERIOD OF PREMIUM ASSISTANCE.—

(A) IN GENERAL.—With respect to any assistance eligible individual, subject to subparagraph (B), the requirements of section 606(a)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb–6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, shall not be treated as met unless the

1 employer of the individual, during the period
2 specified under subparagraph (C), provides to
3 such individual a written notice in clear and un-
4 derstandable language—

5 (i) that the premium assistance for
6 such individual will expire soon and the
7 prominent identification of the date of
8 such expiration;

9 (ii) that such individual may be eligi-
10 ble for coverage without any premium as-
11 sistance through—

12 (I) COBRA continuation cov-
13 erage; or

14 (II) coverage under a group
15 health plan;

16 (iii) that the expiration of premium
17 assistance is treated as a qualifying event
18 for which any assistance eligible individual
19 is eligible to enroll in a qualified health
20 plan offered through an Exchange under
21 title I of such Act (42 U.S.C. 18001 et
22 seq.) during a special enrollment period;
23 and

24 (iv) the information specified in para-
25 graph (7)(B)(vii);

1 (B) EXCEPTION.—The requirement for the
2 group health plan administrator to provide the
3 written notice under subparagraph (A) shall be
4 waived in the case the premium assistance for
5 such individual expires pursuant to clause (i)(I)
6 or (ii)(I) of paragraph (2)(A).

7 (C) PERIOD SPECIFIED.—For purposes of
8 subparagraph (A), the period specified in this
9 subparagraph is, with respect to the date of ex-
10 piration of premium assistance for any assist-
11 ance eligible individual pursuant to a limitation
12 requiring a notice under this paragraph, the pe-
13 riod beginning on the day that is 45 days before
14 the date of such expiration and ending on the
15 day that is 15 days before the date of such ex-
16 piration.

17 (D) MODEL NOTICES.—Not later than 30
18 days after the date of enactment of this Act,
19 with respect to any assistance eligible indi-
20 vidual—

21 (i) the Secretary of Labor, in con-
22 sultation with the Secretary of the Treas-
23 ury and the Secretary of Health and
24 Human Services, shall prescribe models for
25 the notification required under this para-

graph (other than the notification described in clause (ii)); and

(ii) in the case of any notification provided pursuant to subparagraph (A) under section 8905a(f)(2)(A) of title 5, United States Code, the Office of Personnel Management shall prescribe a model for such notification.

(10) REGULATIONS.—The Secretary of the Treasury and the Secretary of Labor may jointly prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this subsection, including the prevention of fraud and abuse under this subsection, except that the Secretary of Labor and the Secretary of Health and Human Services may prescribe such regulations (including interim final regulations) or other guidance as may be necessary or appropriate to carry out the provisions of paragraphs (5), (7), (8), (9), and (11).

(11) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction

1 provided under this subsection. Such outreach shall
2 target employers, group health plan administrators,
3 public assistance programs, States, insurers, and
4 other entities as determined appropriate by such
5 Secretaries. Such outreach shall include an initial
6 focus on those individuals electing continuation cov-
7 erage who are referred to in paragraph (7)(C). In-
8 formation on such premium reduction, including en-
9 rollment, shall also be made available on websites of
10 the Departments of Labor, Treasury, and Health
11 and Human Services.

12 (12) DEFINITIONS.—For purposes of this sec-
13 tion:

14 (A) ADMINISTRATOR.—The term “admin-
15 istrator” has the meaning given such term in
16 section 3(16)(A) of the Employee Retirement
17 Income Security Act of 1974.

18 (B) COBRA CONTINUATION COVERAGE.—
19 The term “COBRA continuation coverage”
20 means continuation coverage provided pursuant
21 to part 6 of subtitle B of title I of the Em-
22 ployee Retirement Income Security Act of 1974
23 (other than under section 609), title XXII of
24 the Public Health Service Act, section 4980B of
25 the Internal Revenue Code of 1986 (other than

1 subsection (f)(1) of such section insofar as it
2 relates to pediatric vaccines), or section 8905a
3 of title 5, United States Code, or under a State
4 program that provides comparable continuation
5 coverage. Such term does not include coverage
6 under a health flexible spending arrangement
7 under a cafeteria plan within the meaning of
8 section 125 of the Internal Revenue Code of
9 1986.

10 (C) COBRA CONTINUATION PROVISION.—

11 The term “COBRA continuation provision”
12 means the provisions of law described in sub-
13 paragraph (B).

14 (D) COVERED EMPLOYEE.—The term

15 “covered employee” has the meaning given such
16 term in section 607(2) of the Employee Retirement
17 Income Security Act of 1974.

18 (E) QUALIFIED BENEFICIARY.—The term

19 “qualified beneficiary” has the meaning given
20 such term in section 607(3) of the Employee
21 Retirement Income Security Act of 1974.

22 (F) GROUP HEALTH PLAN.—The term

23 “group health plan” has the meaning given
24 such term in section 607(1) of the Employee
25 Retirement Income Security Act of 1974.

1 (G) STATE.—The term “State” includes
2 the District of Columbia, the Commonwealth of
3 Puerto Rico, the Virgin Islands, Guam, Amer-
4 ican Samoa, and the Commonwealth of the
5 Northern Mariana Islands.

6 (H) PERIOD OF COVERAGE.—Any ref-
7 erence in this subsection to a period of coverage
8 shall be treated as a reference to a monthly or
9 shorter period of coverage with respect to which
10 premiums are charged with respect to such cov-
11 erage.

12 (I) PLAN SPONSOR.—The term “plan
13 sponsor” has the meaning given such term in
14 section 3(16)(B) of the Employee Retirement
15 Income Security Act of 1974.

16 (J) FURLOUGH.—The term “furlough”
17 means, with respect to an individual, a reduc-
18 tion of the number of paid hours by at least 20
19 percent during any 30-day period as compared
20 to the number of paid hours during the prior
21 30-day period due to a lack of work, funds, or
22 other nondisciplinary reason and the continued
23 eligibility for coverage of the individual under
24 the group health plan of the employer involved.

25 (13) REPORTS.—

1 (A) INTERIM REPORT.—The Secretary of
2 the Treasury and the Secretary of Labor shall
3 jointly submit an interim report to the Com-
4 mittee on Education and Labor, the Committee
5 on Ways and Means, and the Committee on En-
6 ergy and Commerce of the House of Represent-
7 atives and the Committee on Health, Edu-
8 cation, Labor, and Pensions and the Committee
9 on Finance of the Senate regarding the pre-
10 mium reduction provided under this subsection
11 that includes—

12 (i) the number of individuals provided
13 such assistance as of the date of the re-
14 port; and

15 (ii) the total amount of expenditures
16 incurred (with administrative expenditures
17 noted separately) in connection with such
18 assistance as of the date of the report.

19 (B) FINAL REPORT.—As soon as prac-
20 ticable after the last period of COBRA continu-
21 ation coverage for which premium reduction is
22 provided under this section, the Secretary of the
23 Treasury and the Secretary of Labor shall
24 jointly submit a final report to each Committee
25 referred to in subparagraph (A) that includes—

1 (i) the number of individuals provided
2 premium reduction under this section;

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

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

10 (14) COBRA PREMIUM ASSISTANCE.—

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

15 **“SEC. 6432. CONTINUATION COVERAGE PREMIUM ASSIST-**
16 **ANCE.**

17 “(a) IN GENERAL.—The person to whom premiums
18 are payable for continuation coverage under section
19 2(a)(1) of the Worker Health Coverage Protection Act
20 shall be reimbursed as provided in subsection (c) for the
21 amount of premiums not paid by assistance eligible indi-
22 viduals by reason of such section.

23 “(b) PERSON ENTITLED TO REIMBURSEMENT.—For
24 purposes of subsection (a), except as otherwise provided
25 by the Secretary, the person to whom premiums are pay-

1 able under such continuation coverage shall be treated as
2 being—

3 “(1) in the case of any group health plan which
4 is a multiemployer plan (as defined in section 3(37)
5 of the Employee Retirement Income Security Act of
6 1974), the plan,

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

9 “(A) which is furlough continuation cov-
10 erage described in section 2(a)(1)(A)(ii) of the
11 Worker Health Coverage Protection Act or sub-
12 ject to the COBRA continuation provisions con-
13 tained in—

14 “(i) this title,

15 “(ii) the Employee Retirement Income
16 Security Act of 1974,

17 “(iii) the Public Health Service Act,
18 or

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

20 “(B) under which some or all of the cov-
21 erage is not provided by insurance,

22 the employer maintaining the plan, and

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

1 “(c) LIMITATION ON REIMBURSEMENT FOR FUR-
2 LOUGHED EMPLOYEES.—The amount of the premiums
3 treated as not paid by an assistance eligible individual de-
4 scribed in section 2(a)(3)(B) of the Worker Health Cov-
5 erage Protection Act shall not exceed the portion of the
6 annual premium which would have been paid by the em-
7 ployee (without regard to whether paid through salary re-
8 duction or otherwise) for periods of coverage under the
9 plan before the date of the enactment of this section.

10 “(d) METHOD OF REIMBURSEMENT.—Except as oth-
11 erwise provided by the Secretary—

12 “(1) TREATMENT AS PAYMENT OF PAYROLL
13 TAXES.—Each person entitled to reimbursement
14 under subsection (a) (and filing a claim for such re-
15 imbursement at such time and in such manner as
16 the Secretary may require) shall be treated for pur-
17 poses of this title and section 1324(b)(2) of title 31,
18 United States Code, as having paid to the Secretary,
19 on the date that the assistance eligible individual’s
20 premium payment would otherwise be due, payroll
21 taxes in an amount equal to the portion of such re-
22 imbursement which relates to such premium. To the
23 extent that the amount treated as paid under the
24 preceding sentence exceeds the amount of such per-
25 son’s liability for such taxes, the Secretary shall

1 credit or refund such excess in the same manner as
2 if it were an overpayment of such taxes.

3 “(2) OVERSTATEMENTS.—Any overstatement of
4 the reimbursement to which a person is entitled
5 under this section (and any amount paid by the Sec-
6 retary as a result of such overstatement) shall be
7 treated as an underpayment of payroll taxes by such
8 person and may be assessed and collected by the
9 Secretary in the same manner as payroll taxes.

10 “(e) DEFINITIONS.—For purposes of this section—

11 “(1) PAYROLL TAXES.—The term ‘payroll
12 taxes’ means—

13 “(A) amounts required to be deducted and
14 withheld for the payroll period under section
15 3402 (relating to wage withholding),

16 “(B) amounts required to be deducted for
17 the payroll period under section 3102 (relating
18 to FICA employee taxes), and

19 “(C) amounts of the taxes imposed for the
20 payroll period under section 3111 (relating to
21 FICA employer taxes).

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

24 “(f) REPORTING.—Each person entitled to reim-
25 bursement under subsection (a) for any period shall sub-

1 mit such reports (at such time and in such manner) as
2 the Secretary may require, including—

3 “(1) an attestation of involuntary termination
4 of employment, reduction of hours, or furloughing,
5 for each assistance eligible individual on the basis of
6 whose termination, reduction of hours, or fur-
7 loughing entitlement to reimbursement is claimed
8 under subsection (a),

9 “(2) a report of the amount of payroll taxes off-
10 set under subsection (a) for the reporting period and
11 the estimated offsets of such taxes for the subse-
12 quent reporting period in connection with reimburse-
13 ments under subsection (a), and

14 “(3) a report containing the TINs of all covered
15 employees, the amount of subsidy reimbursed with
16 respect to each covered employee and qualified bene-
17 ficiaries, and a designation with respect to each cov-
18 ered employee as to whether the subsidy reimburse-
19 ment is for coverage of 1 individual or 2 or more in-
20 dividuals.

21 “(g) REGULATIONS.—The Secretary shall issue such
22 regulations or other guidance as may be necessary or ap-
23 propriate to carry out this section, including—

24 “(1) the requirement to report information or
25 the establishment of other methods for verifying the

1 correct amounts of reimbursements under this sec-
 2 tion, and

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

7 (B) SOCIAL SECURITY TRUST FUNDS HELD
 8 HARMLESS.—In determining any amount trans-
 9 ferred or appropriated to any fund under the
 10 Social Security Act, section 6432 of the Inter-
 11 nal Revenue Code of 1986 shall not be taken
 12 into account.

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

“Sec. 6432. Continuation coverage premium assistance.”.

17 (D) EFFECTIVE DATE.—The amendments
 18 made by this paragraph shall apply to pre-
 19 miums to which subsection (a)(1)(A) applies.

20 (E) SPECIAL RULE.—

21 (i) IN GENERAL.—In the case of an
 22 assistance eligible individual who pays,
 23 with respect to the first period of continu-
 24 ation coverage to which subsection
 25 (a)(1)(A) applies or the immediately subse-

1 quent period, the full premium amount for
2 such coverage, the person to whom such
3 payment is payable shall—

4 (I) make a reimbursement pay-
5 ment to such individual for the
6 amount of such premium paid in ex-
7 cess of the amount required to be paid
8 under subsection (a)(1)(A); or

9 (II) provide credit to the indi-
10 vidual for such amount in a manner
11 that reduces one or more subsequent
12 premium payments that the individual
13 is required to pay under such sub-
14 section for the coverage involved.

15 (ii) REIMBURSING EMPLOYER.—A
16 person to which clause (i) applies shall be
17 reimbursed as provided for in section 6432
18 of the Internal Revenue Code of 1986 for
19 any payment made, or credit provided, to
20 the employee under such clause.

21 (iii) PAYMENT OF CREDITS.—Unless
22 it is reasonable to believe that the credit
23 for the excess payment in clause (i)(II) will
24 be used by the assistance eligible individual
25 within 180 days of the date on which the

1 person receives from the individual the
 2 payment of the full premium amount, a
 3 person to which clause (i) applies shall
 4 make the payment required under such
 5 clause to the individual within 60 days of
 6 such payment of the full premium amount.
 7 If, as of any day within the 180-day pe-
 8 riod, it is no longer reasonable to believe
 9 that the credit will be used during that pe-
 10 riod, payment equal to the remainder of
 11 the credit outstanding shall be made to the
 12 individual within 60 days of such day.

13 (15) PENALTY FOR FAILURE TO NOTIFY
 14 HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR
 15 PREMIUM ASSISTANCE.—

16 (A) IN GENERAL.—Part I of subchapter B
 17 of chapter 68 of the Internal Revenue Code of
 18 1986 is amended by adding at the end the fol-
 19 lowing new section:

20 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
 21 **PLAN OF CESSATION OF ELIGIBILITY FOR**
 22 **CONTINUATION COVERAGE PREMIUM ASSIST-**
 23 **ANCE.**

24 “(a) IN GENERAL.—Any person required to notify a
 25 group health plan under section 2(a)(2)(B) of the Worker

1 Health Coverage Protection Act who fails to make such
 2 a notification at such time and in such manner as the Sec-
 3 retary of Labor may require shall pay a penalty of \$250.

4 “(b) INTENTIONAL FAILURE.—In the case of any
 5 such failure that is fraudulent, such person shall pay a
 6 penalty of 110 percent of the premium reduction provided
 7 under such section after termination of eligibility under
 8 such subsection.

9 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
 10 shall be imposed under this section with respect to any
 11 failure if it is shown that such failure is due to reasonable
 12 cause and not to willful neglect.”.

13 (B) CLERICAL AMENDMENT.—The table of
 14 sections of part I of subchapter B of chapter 68
 15 of such Code is amended by adding at the end
 16 the following new item:

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

17 (16) COORDINATION WITH HCTC.—

18 (A) IN GENERAL.—Section 35(g)(9) of the
 19 Internal Revenue Code of 1986 is amended to
 20 read as follows:

21 “(9) CONTINUATION COVERAGE PREMIUM AS-
 22 SISTANCE.—In the case of an assistance eligible in-
 23 dividual who receives premium reduction for continu-
 24 ation coverage under section 2(a)(1) of the Worker

1 Health Coverage Protection Act for any month dur-
 2 ing the taxable year, such individual shall not be
 3 treated as an eligible individual, a certified indi-
 4 vidual, or a qualifying family member for purposes
 5 of this section or section 7527 with respect to such
 6 month.”.

7 (B) EFFECTIVE DATE.—The amendment
 8 made by subparagraph (A) shall apply to tax-
 9 able years ending after the date of the enact-
 10 ment of this Act.

11 (17) EXCLUSION OF CONTINUATION COVERAGE
 12 PREMIUM ASSISTANCE FROM GROSS INCOME.—

13 (A) IN GENERAL.—Part III of subchapter
 14 B of chapter 1 of the Internal Revenue Code of
 15 1986 is amended by inserting after section
 16 139H the following new section:

17 **“SEC. 139I. CONTINUATION COVERAGE PREMIUM ASSIST-**
 18 **ANCE.**

19 “In the case of an assistance eligible individual (as
 20 defined in subsection (a)(3) of section 2 of the Worker
 21 Health Coverage Protection Act), gross income does not
 22 include any premium reduction provided under subsection
 23 (a)(1) of such section.”.

24 (B) CLERICAL AMENDMENT.—The table of
 25 sections for part III of subchapter B of chapter

1 1 of such Code is amended by inserting after
2 the item relating to section 139H the following
3 new item:

“Sec. 139I. Continuation coverage premium assistance.”.

4 (C) EFFECTIVE DATE.—The amendments
5 made by this paragraph shall apply to taxable
6 years ending after the date of the enactment of
7 this Act.

8 (b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-
9 INCOME INDIVIDUALS.—

10 (1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME
11 INDIVIDUALS.—If—

12 (A) premium assistance is provided under
13 this section with respect to any continuation
14 coverage which covers the taxpayer, the tax-
15 payer’s spouse, or any dependent (within the
16 meaning of section 152 of the Internal Revenue
17 Code of 1986, determined without regard to
18 subsections (b)(1), (b)(2), and (d)(1)(B) there-
19 of) of the taxpayer during any portion of the
20 taxable year, and

21 (B) the taxpayer’s modified adjusted gross
22 income for such taxable year exceeds \$125,000
23 (\$250,000 in the case of a joint return),

1 then the tax imposed by chapter 1 of such Code with
2 respect to the taxpayer for such taxable year shall
3 be increased by the amount of such assistance.

4 (2) PHASE-IN OF RECAPTURE.—

5 (A) IN GENERAL.—In the case of a tax-
6 payer whose modified adjusted gross income for
7 the taxable year does not exceed \$145,000
8 (\$290,000 in the case of a joint return), the in-
9 crease in the tax imposed under paragraph (1)
10 shall not exceed the phase-in percentage of such
11 increase (determined without regard to this
12 paragraph).

13 (B) PHASE-IN PERCENTAGE.—For pur-
14 poses of this subsection, the term “phase-in
15 percentage” means the ratio (expressed as a
16 percentage) obtained by dividing—

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

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

21 (3) OPTION FOR HIGH-INCOME INDIVIDUALS TO
22 WAIVE ASSISTANCE AND AVOID RECAPTURE.—Not-
23 withstanding subsection (a)(3), an individual shall
24 not be treated as an assistance eligible individual for

1 purposes of this section and section 6432 of the In-
2 ternal Revenue Code of 1986 if such individual—

3 (A) makes a permanent election (at such
4 time and in such form and manner as the Sec-
5 retary of the Treasury may prescribe) to waive
6 the right to the premium assistance provided
7 under this section, and

8 (B) notifies the entity to whom premiums
9 are reimbursed under section 6432(a) of such
10 Code of such election.

11 (4) MODIFIED ADJUSTED GROSS INCOME.—For
12 purposes of this subsection, the term “modified
13 gross income” means the adjusted gross income (as
14 defined in section 62 of the Internal Revenue Code
15 of 1986) of the taxpayer for the taxable year in-
16 creased by any amount excluded from gross income
17 under section 911, 931, or 933 of such Code.

18 (5) CREDITS NOT ALLOWED AGAINST TAX,
19 ETC.—For purposes determining regular tax liability
20 under section 26(b) of such Code, the increase in tax
21 under this subsection shall not be treated as a tax
22 imposed under chapter 1 of such Code.

23 (6) REGULATIONS.—The Secretary of the
24 Treasury shall issue such regulations or other guid-
25 ance as are necessary or appropriate to carry out

1 this subsection, including requirements that the enti-
2 ty to whom premiums are reimbursed under section
3 6432(a) of the Internal Revenue Code of 1986 re-
4 port to the Secretary, and to each assistance eligible
5 individual, the amount of premium assistance pro-
6 vided under subsection (a) with respect to each such
7 individual.

8 (7) EFFECTIVE DATE.—The provisions of this
9 subsection shall apply to taxable years ending after
10 the date of the enactment of this Act.

11 (c) RULE OF CONSTRUCTION.—In all matters of in-
12 terpretation, rules, and operational procedures, the lan-
13 guage of this section shall be interpreted broadly for the
14 benefit of workers and their families.

○