



## Net Worth

- Kathleen Pender

# Appealing COBRA subsidy rejections

Thursday, July 30, 2009

If you have lost your job since Sept. 1 and been denied the federal subsidy for COBRA health care premiums, consider filing an appeal.

The odds of winning are not bad.

Under the subsidy program, if you are involuntarily terminated between Sept. 1, 2008, and Dec. 31, 2009, and are eligible to remain in your former employer's group health plan at your own expense under the federal law known as COBRA, the federal government might pay 65 percent of your premium for up to nine months. You pay the other 35 percent. Other rules apply, including income restrictions.

Since the program started in March, the Department of Labor has received 6,373 appeals from people who were denied the subsidy.

In about 75 percent of those cases, the department overturned the denial and awarded the subsidy. In most of these cases, people were initially denied a subsidy

because their employers said they were not terminated involuntarily. But upon review, the department decided they met the program's fairly expansive definition of involuntary termination. Generally, any dismissal that is "employer-initiated" qualifies, according to a Labor Department spokeswoman speaking on background.

A person who is on disability and then gets laid off would generally qualify, she says. If a worker is absent and doesn't call in as required, then gets laid off, "for our purposes, because it is employer initiated, it is still an involuntary termination."

Some people win their appeal because the denial was the result of a payroll coding error or miscommunication.

The top reasons appeals are denied:

-- It was true voluntary termination.

-- A worker lost group health coverage because his hours were cut, but he was not terminated.

-- The dates were wrong. To qualify, your termination date and COBRA start date must fall

between Sept. 1, 2008, and Dec. 31, 2009.

-- The worker was eligible for Medicare or other group health coverage through a spouse.

The labor department oversees COBRA, which generally applies to private-sector employers with 20 or more employees. If you worked for this type of employer, you can file an appeal by calling (866) 444-3272 toll free, or (415) 625-2481, or visiting [www.dol.gov/ebsa/COBRA.html](http://www.dol.gov/ebsa/COBRA.html).

The subsidy is also available to most government employees and - in some states including California - to workers at private-sector employers with fewer than 20 employees.

The Centers for Medicare & Medicaid Services, which oversees the program for these employers, has set up a helpline, (866) 400-6689, and Web site ([www.ContinuationCoverage.net](http://www.ContinuationCoverage.net)) for expedited appeals.

More than 2,600 people have used these services since they started in late May. "Those inquiries resulted in 677 requests for expedited review. (The centers) rendered 501 decisions on those requests, of which 190

were favorable and 139 were unfavorable," says Joseph Kuchler, a spokesman for the centers.

Philip Lebherz, founding director of the **Foundation for Health Coverage Education**, says the number of appeals filed is small considering the number of Americans that have been laid off. He says appeals are low because "There's not much incentive for the employer not to accept the employee's request," because the employer is not paying for the subsidy.

One reader wanted to know if a person could get the subsidy more than once if he was laid off twice during the relevant time period.

The answer is yes, according to Internal Revenue Service spokesman Eric Smith. An eligible individual could get the subsidy for up to nine months in connection with each involuntary termination of employment that occurs from September 1, 2008, through December 31, 2009, and which results in a loss of coverage under a qualifying health plan.

"It could be that the individual has two involuntary terminations of employment, or that the individual has one and the individual's spouse another. Either way, each involuntary termination could result in a separate nine-month period of eligibility," he says.

Net Worth runs Tuesdays, Thursdays and Sundays. E-mail Kathleen Pender at [kpender@sfgate.com](mailto:kpender@sfgate.com). Read her blog at [sfgate.com/blogs/pender](http://sfgate.com/blogs/pender).