

1 or assistance, or the amount or extent of benefits or assist-  
2 ance, under any Federal program or under any State or  
3 local program financed in whole or in part with Federal  
4 funds.

5 **TITLE III—PREMIUM ASSIST-**  
6 **ANCE FOR COBRA BENEFITS**

7 **SEC. 3000. TABLE OF CONTENTS.**

8 The table of contents of this title is as follows:

TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

Sec. 3000. Table of contents.

Sec. 3001. Premium assistance for COBRA benefits.

9 **SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.**

10 (a) **PREMIUM ASSISTANCE FOR COBRA CONTINU-**  
11 **ATION COVERAGE FOR INDIVIDUALS AND THEIR FAMI-**  
12 **LIES.—**

13 (1) **PROVISION OF PREMIUM ASSISTANCE.—**

14 (A) **REDUCTION OF PREMIUMS PAY-**  
15 **ABLE.—**In the case of any premium for a pe-  
16 riod of coverage beginning on or after the date  
17 of the enactment of this Act for COBRA con-  
18 tinuation coverage with respect to any assist-  
19 ance eligible individual, such individual shall be  
20 treated for purposes of any COBRA continu-  
21 ation provision as having paid the amount of  
22 such premium if such individual pays (or a per-  
23 son other than such individual's employer pays

1 on behalf of such individual) 35 percent of the  
2 amount of such premium (as determined with-  
3 out regard to this subsection).

4 (B) PLAN ENROLLMENT OPTION.—

5 (i) IN GENERAL.—Notwithstanding  
6 the COBRA continuation provisions, an as-  
7 sistance eligible individual may, not later  
8 than 90 days after the date of notice of the  
9 plan enrollment option described in this  
10 subparagraph, elect to enroll in coverage  
11 under a plan offered by the employer in-  
12 volved, or the employee organization in-  
13 volved (including, for this purpose, a joint  
14 board of trustees of a multiemployer trust  
15 affiliated with one or more multiemployer  
16 plans), that is different than coverage  
17 under the plan in which such individual  
18 was enrolled at the time the qualifying  
19 event occurred, and such coverage shall be  
20 treated as COBRA continuation coverage  
21 for purposes of the applicable COBRA con-  
22 tinuation coverage provision.

23 (ii) REQUIREMENTS.—An assistance  
24 eligible individual may elect to enroll in

1 different coverage as described in clause (i)  
2 only if—

3 (I) the employer involved has  
4 made a determination that such em-  
5 ployer will permit assistance eligible  
6 individuals to enroll in different cov-  
7 erage as provided for this subpara-  
8 graph;

9 (II) the premium for such dif-  
10 ferent coverage does not exceed the  
11 premium for coverage in which the in-  
12 dividual was enrolled at the time the  
13 qualifying event occurred;

14 (III) the different coverage in  
15 which the individual elects to enroll is  
16 coverage that is also offered to the ac-  
17 tive employees of the employer at the  
18 time at which such election is made;  
19 and

20 (IV) the different coverage is  
21 not—

22 (aa) coverage that provides  
23 only dental, vision, counseling, or  
24 referral services (or a combina-  
25 tion of such services);

1 (bb) a flexible spending ar-  
2 rangement (as defined in section  
3 106(c)(2) of the Internal Rev-  
4 enue Code of 1986); or

5 (cc) coverage that provides  
6 coverage for services or treat-  
7 ments furnished in an on-site  
8 medical facility maintained by  
9 the employer and that consists  
10 primarily of first-aid services,  
11 prevention and wellness care, or  
12 similar care (or a combination of  
13 such care).

14 (C) PREMIUM REIMBURSEMENT.—For pro-  
15 visions providing the balance of such premium,  
16 see section 6432 of the Internal Revenue Code  
17 of 1986, as added by paragraph (12).

18 (2) LIMITATION OF PERIOD OF PREMIUM AS-  
19 SISTANCE.—

20 (A) IN GENERAL.—Paragraph (1)(A) shall  
21 not apply with respect to any assistance eligible  
22 individual for months of coverage beginning on  
23 or after the earlier of—

24 (i) the first date that such individual  
25 is eligible for coverage under any other

1 group health plan (other than coverage  
2 consisting of only dental, vision, coun-  
3 seling, or referral services (or a combina-  
4 tion thereof), coverage under a flexible  
5 spending arrangement (as defined in sec-  
6 tion 106(c)(2) of the Internal Revenue  
7 Code of 1986), or coverage of treatment  
8 that is furnished in an on-site medical fa-  
9 cility maintained by the employer and that  
10 consists primarily of first-aid services, pre-  
11 vention and wellness care, or similar care  
12 (or a combination thereof)) or is eligible  
13 for benefits under title XVIII of the Social  
14 Security Act, or

15 (ii) the earliest of—

16 (I) the date which is 9 months  
17 after the first day of the first month  
18 that paragraph (1)(A) applies with re-  
19 spect to such individual,

20 (II) the date following the expira-  
21 tion of the maximum period of con-  
22 tinuation coverage required under the  
23 applicable COBRA continuation cov-  
24 erage provision, or

1 (III) the date following the expi-  
2 ration of the period of continuation  
3 coverage allowed under paragraph  
4 (4)(B)(ii).

5 (B) TIMING OF ELIGIBILITY FOR ADDI-  
6 TIONAL COVERAGE.—For purposes of subpara-  
7 graph (A)(i), an individual shall not be treated  
8 as eligible for coverage under a group health  
9 plan before the first date on which such indi-  
10 vidual could be covered under such plan.

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

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

22 (A) at any time during the period that be-  
23 gins with September 1, 2008, and ends with  
24 December 31, 2009, such qualified beneficiary  
25 is eligible for COBRA continuation coverage,

1 (B) such qualified beneficiary elects such  
2 coverage, and

3 (C) the qualifying event with respect to the  
4 COBRA continuation coverage consists of the  
5 involuntary termination of the covered employ-  
6 ee's employment and occurred during such pe-  
7 riod.

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

10 (A) IN GENERAL.—For purposes of apply-  
11 ing section 605(a) of the Employee Retirement  
12 Income Security Act of 1974, section  
13 4980B(f)(5)(A) of the Internal Revenue Code  
14 of 1986, section 2205(a) of the Public Health  
15 Service Act, and section 8905a(e)(2) of title 5,  
16 United States Code, in the case of an individual  
17 who does not have an election of COBRA con-  
18 tinuation coverage in effect on the date of the  
19 enactment of this Act but who would be an as-  
20 sistance eligible individual if such election were  
21 so in effect, such individual may elect the  
22 COBRA continuation coverage under the  
23 COBRA continuation coverage provisions con-  
24 taining such sections during the period begin-  
25 ning on the date of the enactment of this Act

1 and ending 60 days after the date on which the  
2 notification required under paragraph (7)(C) is  
3 provided to such individual.

4 (B) COMMENCEMENT OF COVERAGE; NO  
5 REACH-BACK.—Any COBRA continuation cov-  
6 erage elected by a qualified beneficiary during  
7 an extended election period under subparagraph  
8 (A)—

9 (i) shall commence with the first pe-  
10 riod of coverage beginning on or after the  
11 date of the enactment of this Act, and

12 (ii) shall not extend beyond the period  
13 of COBRA continuation coverage that  
14 would have been required under the appli-  
15 cable COBRA continuation coverage provi-  
16 sion if the coverage had been elected as re-  
17 quired under such provision.

18 (C) PREEXISTING CONDITIONS.—With re-  
19 spect to a qualified beneficiary who elects  
20 COBRA continuation coverage pursuant to sub-  
21 paragraph (A), the period—

22 (i) beginning on the date of the quali-  
23 fying event, and

24 (ii) ending with the beginning of the  
25 period described in subparagraph (B)(i),



1 shall be disregarded for purposes of deter-  
2 mining the 63-day periods referred to in section  
3 701(c)(2) of the Employee Retirement Income  
4 Security Act of 1974, section 9801(c)(2) of the  
5 Internal Revenue Code of 1986, and section  
6 2701(c)(2) of the Public Health Service Act.

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

1 shall be de novo and shall be the final determination  
2 of such Secretary. A reviewing court shall grant def-  
3 erence to such Secretary's determination. The provi-  
4 sions of this paragraph, paragraphs (1) through (4),  
5 and paragraph (7) shall be treated as provisions of  
6 title I of the Employee Retirement Income Security  
7 Act of 1974 for purposes of part 5 of subtitle B of  
8 such title.

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

19 (7) NOTICES TO INDIVIDUALS.—

20 (A) GENERAL NOTICE.—

21 (i) IN GENERAL.—In the case of no-  
22 tices provided under section 606(a)(4) of  
23 the Employee Retirement Income Security  
24 Act of 1974 (29 U.S.C. 1166(4)), section  
25 4980B(f)(6)(D) of the Internal Revenue

1 Code of 1986, section 2206(4) of the Pub-  
2 lic Health Service Act (42 U.S.C. 300bb-  
3 6(4)), or section 8905a(f)(2)(A) of title 5,  
4 United States Code, with respect to indi-  
5 viduals who, during the period described in  
6 paragraph (3)(A), become entitled to elect  
7 COBRA continuation coverage, the re-  
8 quirements of such sections shall not be  
9 treated as met unless such notices include  
10 an additional notification to the recipient  
11 of—

12 (I) the availability of premium  
13 reduction with respect to such cov-  
14 erage under this subsection, and

15 (II) the option to enroll in dif-  
16 ferent coverage if the employer per-  
17 mits assistance eligible individuals to  
18 elect enrollment in different coverage  
19 (as described in paragraph (1)(B)).

20 (ii) ALTERNATIVE NOTICE.—In the  
21 case of COBRA continuation coverage to  
22 which the notice provision under such sec-  
23 tions does not apply, the Secretary of  
24 Labor, in consultation with the Secretary  
25 of the Treasury and the Secretary of

1 Health and Human Services, shall, in con-  
2 sultation with administrators of the group  
3 health plans (or other entities) that provide  
4 or administer the COBRA continuation  
5 coverage involved, provide rules requiring  
6 the provision of such notice.

7 (iii) FORM.—The requirement of the  
8 additional notification under this subpara-  
9 graph may be met by amendment of exist-  
10 ing notice forms or by inclusion of a sepa-  
11 rate document with the notice otherwise  
12 required.

13 (B) SPECIFIC REQUIREMENTS.—Each ad-  
14 ditional notification under subparagraph (A)  
15 shall include—

16 (i) the forms necessary for estab-  
17 lishing eligibility for premium reduction  
18 under this subsection,

19 (ii) the name, address, and telephone  
20 number necessary to contact the plan ad-  
21 ministrator and any other person main-  
22 taining relevant information in connection  
23 with such premium reduction,

1 (iii) a description of the extended elec-  
2 tion period provided for in paragraph  
3 (4)(A),

4 (iv) a description of the obligation of  
5 the qualified beneficiary under paragraph  
6 (2)(C) to notify the plan providing continu-  
7 ation coverage of eligibility for subsequent  
8 coverage under another group health plan  
9 or eligibility for benefits under title XVIII  
10 of the Social Security Act and the penalty  
11 provided under section 6720C of the Inter-  
12 nal Revenue Code of 1986 for failure to so  
13 notify the plan,

14 (v) a description, displayed in a  
15 prominent manner, of the qualified bene-  
16 ficiary's right to a reduced premium and  
17 any conditions on entitlement to the re-  
18 duced premium, and

19 (vi) a description of the option of the  
20 qualified beneficiary to enroll in different  
21 coverage if the employer permits such ben-  
22 eficiary to elect to enroll in such different  
23 coverage under paragraph (1)(B).

24 (C) NOTICE IN CONNECTION WITH EX-  
25 TENDED ELECTION PERIODS.—In the case of

1 any assistance eligible individual (or any indi-  
2 vidual described in paragraph (4)(A)) who be-  
3 came entitled to elect COBRA continuation cov-  
4 erage before the date of the enactment of this  
5 Act, the administrator of the group health plan  
6 (or other entity) involved shall provide (within  
7 60 days after the date of enactment of this Act)  
8 for the additional notification required to be  
9 provided under subparagraph (A) and failure to  
10 provide such notice shall be treated as a failure  
11 to meet the notice requirements under the ap-  
12 plicable COBRA continuation provision.

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

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

22 (ii) in the case of any additional noti-  
23 fication provided pursuant to subpara-  
24 graph (A) under section 8905a(f)(2)(A) of  
25 title 5, United States Code, the Office of

1 Personnel Management shall prescribe a  
2 model for such additional notification.

3 (8) REGULATIONS.—The Secretary of the  
4 Treasury may prescribe such regulations or other  
5 guidance as may be necessary or appropriate to  
6 carry out the provisions of this subsection, including  
7 the prevention of fraud and abuse under this sub-  
8 section, except that the Secretary of Labor and the  
9 Secretary of Health and Human Services may pre-  
10 scribe such regulations (including interim final regu-  
11 lations) or other guidance as may be necessary or  
12 appropriate to carry out the provisions of para-  
13 graphs (5), (7), and (9).

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

1       formation on such premium reduction, including en-  
2       rollment, shall also be made available on websites of  
3       the Departments of Labor, Treasury, and Health  
4       and Human Services.

5           (10) DEFINITIONS.—For purposes of this  
6       section—

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

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



1 section 125 of the Internal Revenue Code of  
2 1986.

3 (C) COBRA CONTINUATION PROVISION.—  
4 The term “COBRA continuation provision”  
5 means the provisions of law described in sub-  
6 paragraph (B).

7 (D) COVERED EMPLOYEE.—The term  
8 “covered employee” has the meaning given such  
9 term in section 607(2) of the Employee Retirement  
10 Income Security Act of 1974.

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

15 (F) GROUP HEALTH PLAN.—The term  
16 “group health plan” has the meaning given  
17 such term in section 607(1) of the Employee  
18 Retirement Income Security Act of 1974.

19 (G) STATE.—The term “State” includes  
20 the District of Columbia, the Commonwealth of  
21 Puerto Rico, the Virgin Islands, Guam, Amer-  
22 ican Samoa, and the Commonwealth of the  
23 Northern Mariana Islands.

24 (H) PERIOD OF COVERAGE.—Any ref-  
25 erence in this subsection to a period of coverage

1 shall be treated as a reference to a monthly or  
2 shorter period of coverage with respect to which  
3 premiums are charged with respect to such cov-  
4 erage.

5 (11) REPORTS.—

6 (A) INTERIM REPORT.—The Secretary of  
7 the Treasury shall submit an interim report to  
8 the Committee on Education and Labor, the  
9 Committee on Ways and Means, and the Com-  
10 mittee on Energy and Commerce of the House  
11 of Representatives and the Committee on  
12 Health, Education, Labor, and Pensions and  
13 the Committee on Finance of the Senate re-  
14 garding the premium reduction provided under  
15 this subsection that includes—

16 (i) the number of individuals provided  
17 such assistance as of the date of the re-  
18 port; and

19 (ii) the total amount of expenditures  
20 incurred (with administrative expenditures  
21 noted separately) in connection with such  
22 assistance as of the date of the report.

23 (B) FINAL REPORT.—As soon as prac-  
24 ticable after the last period of COBRA continu-  
25 ation coverage for which premium reduction is

1 provided under this section, the Secretary of the  
2 Treasury shall submit a final report to each  
3 Committee referred to in subparagraph (A) that  
4 includes—

5 (i) the number of individuals provided  
6 premium reduction under this section;

7 (ii) the average dollar amount  
8 (monthly and annually) of premium reduc-  
9 tions provided to such individuals; and

10 (iii) the total amount of expenditures  
11 incurred (with administrative expenditures  
12 noted separately) in connection with pre-  
13 mium reduction under this section.

14 (12) COBRA PREMIUM ASSISTANCE.—

15 (A) IN GENERAL.—Subchapter B of chap-  
16 ter 65 of the Internal Revenue Code of 1986,  
17 as amended by this Act, is amended by adding  
18 at the end the following new section:

19 **“SEC. 6432. COBRA PREMIUM ASSISTANCE.**

20 **“(a) IN GENERAL.—**The person to whom premiums  
21 are payable under COBRA continuation coverage shall be  
22 reimbursed as provided in subsection (c) for the amount  
23 of premiums not paid by assistance eligible individuals by  
24 reason of section 3002(a) of the Health Insurance Assist-  
25 ance for the Unemployed Act of 2009.

1       “(b) PERSON ENTITLED TO REIMBURSEMENT.—For  
2 purposes of subsection (a), except as otherwise provided  
3 by the Secretary, the person to whom premiums are pay-  
4 able under COBRA continuation coverage shall be treated  
5 as being—

6               “(1) in the case of any group health plan which  
7 is a multiemployer plan (as defined in section 3(37)  
8 of the Employee Retirement Income Security Act of  
9 1974), the plan,

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

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

14                              “(i) the Internal Revenue Code of  
15 1986,

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

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

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

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

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

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

6           “(1) TREATMENT AS PAYMENT OF PAYROLL  
7 TAXES.—Each person entitled to reimbursement  
8 under subsection (a) (and filing a claim for such re-  
9 imbursement at such time and in such manner as  
10 the Secretary may require) shall be treated for pur-  
11 poses of this title and section 1324(b)(2) of title 31,  
12 United States Code, as having paid to the Secretary,  
13 on the date that the assistance eligible individual’s  
14 premium payment is received, payroll taxes in an  
15 amount equal to the portion of such reimbursement  
16 which relates to such premium. To the extent that  
17 the amount treated as paid under the preceding sen-  
18 tence exceeds the amount of such person’s liability  
19 for such taxes, the Secretary shall credit or refund  
20 such excess in the same manner as if it were an  
21 overpayment of such taxes.

22           “(2) OVERSTATEMENTS.—Any overstatement of  
23 the reimbursement to which a person is entitled  
24 under this section (and any amount paid by the Sec-  
25 retary as a result of such overstatement) shall be

1 treated as an underpayment of payroll taxes by such  
2 person and may be assessed and collected by the  
3 Secretary in the same manner as payroll taxes.

4 “(3) REIMBURSEMENT CONTINGENT ON PAY-  
5 MENT OF REMAINING PREMIUM.—No reimbursement  
6 may be made under this section to a person with re-  
7 spect to any assistance eligible individual until after  
8 the reduced premium required under section  
9 3002(a)(1)(A) of such Act with respect to such indi-  
10 vidual has been received.

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

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

14 “(A) amounts required to be deducted and  
15 withheld for the payroll period under section  
16 3402 (relating to wage withholding),

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

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

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

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

5           “(1) an attestation of involuntary termination  
6 of employment for each covered employee on the  
7 basis of whose termination entitlement to reimburse-  
8 ment is claimed 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       “(f) 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. COBRA 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 COBRA  
24 continuation 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 OR 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 (13) 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 **COBRA PREMIUM ASSISTANCE.**

23 “(a) IN GENERAL.—Any person required to notify a  
24 group health plan under section 3002(a)(2)(C)) of the  
25 Health Insurance Assistance for the Unemployed Act of

1 2009 who fails to make such a notification at such time  
2 and in such manner as the Secretary of Labor may require  
3 shall pay a penalty of 110 percent of the premium reduc-  
4 tion provided under such section after termination of eligi-  
5 bility under such subsection.

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

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

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

14 (C) EFFECTIVE DATE.—The amendments  
15 made by this paragraph shall apply to failures  
16 occurring after the date of the enactment of  
17 this Act.

18 (14) COORDINATION WITH HCTC.—

19 (A) IN GENERAL.—Subsection (g) of sec-  
20 tion 35 of the Internal Revenue Code of 1986  
21 is amended by redesignating paragraph (9) as  
22 paragraph (10) and inserting after paragraph  
23 (8) the following new paragraph:

1           “(9) COBRA PREMIUM ASSISTANCE.—In the  
2 case of an assistance eligible individual who receives  
3 premium reduction for COBRA continuation cov-  
4 erage under section 3002(a) of the Health Insurance  
5 Assistance for the Unemployed Act of 2009 for any  
6 month during the taxable year, such individual shall  
7 not be treated as an eligible individual, a certified  
8 individual, or a qualifying family member for pur-  
9 poses of this section or section 7527 with respect to  
10 such month.”.

11           (B) EFFECTIVE DATE.—The amendment  
12 made by subparagraph (A) shall apply to tax-  
13 able years ending after the date of the enact-  
14 ment of this Act.

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

17           (A) IN GENERAL.—Part III of subchapter  
18 B of chapter 1 of the Internal Revenue Code of  
19 1986 is amended by inserting after section  
20 139B the following new section:

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

22           “**In the case of an assistance eligible individual (as**  
23 **defined in section 3002 of the Health Insurance Assist-**  
24 **ance for the Unemployed Act of 2009), gross income does**

1 not include any premium reduction provided under sub-  
2 section (a) of such section.”.

3 (B) CLERICAL AMENDMENT.—The table of  
4 sections for part III of subchapter B of chapter  
5 1 of such Code is amended by inserting after  
6 the item relating to section 139B the following  
7 new item:

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

8 (C) EFFECTIVE DATE.—The amendments  
9 made by this paragraph shall apply to taxable  
10 years ending after the date of the enactment of  
11 this Act.

12 (b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-  
13 INCOME INDIVIDUALS.—

14 (1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME  
15 INDIVIDUALS.—If—

16 (A) premium assistance is provided under  
17 this section with respect to any COBRA con-  
18 tinuation coverage which covers the taxpayer,  
19 the taxpayer’s spouse, or any dependent (within  
20 the meaning of section 152 of the Internal Rev-  
21 enue Code of 1986, determined without regard  
22 to subsections (b)(1), (b)(2), and (d)(1)(B)  
23 thereof) of the taxpayer during any portion of  
24 the taxable year, and

1 (B) the taxpayer's modified adjusted gross  
2 income for such taxable year exceeds \$125,000  
3 (\$250,000 in the case of a joint return),  
4 then the tax imposed by chapter 1 of such Code with  
5 respect to the taxpayer for such taxable year shall  
6 be increased by the amount of such assistance.

7 (2) PHASE-IN OF RECAPTURE.—

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

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

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

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

24 (3) OPTION FOR HIGH-INCOME INDIVIDUALS TO  
25 WAIVE ASSISTANCE AND AVOID RECAPTURE.—Not-

1 withstanding subsection (a)(3), an individual shall  
2 not be treated as an assistance eligible individual for  
3 purposes of this section and section 6432 of the In-  
4 ternal Revenue Code of 1986 if such individual—

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

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

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

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

1           (6) REGULATIONS.—The Secretary of the  
2 Treasury shall issue such regulations or other guid-  
3 ance as are necessary or appropriate to carry out  
4 this subsection, including requirements that the enti-  
5 ty to whom premiums are reimbursed under section  
6 6432(a) of the Internal Revenue Code of 1986 re-  
7 port to the Secretary, and to each assistance eligible  
8 individual, the amount of premium assistance pro-  
9 vided under subsection (a) with respect to each such  
10 individual.

11           (7) EFFECTIVE DATE.—The provisions of this  
12 subsection shall apply to taxable years ending after  
13 the date of the enactment of this Act.

14 **TITLE IV—MEDICARE AND MED-**  
15 **ICAID HEALTH INFORMATION**  
16 **TECHNOLOGY; MISCELLA-**  
17 **NEOUS MEDICARE PROVI-**  
18 **SIONS**

19 **SEC. 4001. TABLE OF CONTENTS OF TITLE.**

20           The table of contents of this title is as follows:

**TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION  
TECHNOLOGY; MISCELLANEOUS MEDICARE PROVISIONS**

Sec. 4001. Table of contents of title.

Subtitle A—Medicare Incentives

Sec. 4101. Incentives for eligible professionals.

Sec. 4102. Incentives for hospitals.

Sec. 4103. Treatment of payments and savings; implementation funding.

Sec. 4104. Studies and reports on health information technology.

Subtitle B—Medicaid Incentives