

basis of the reduction of hours of employment, the involuntary termination of employment of such individual on or after the date of the enactment of this paragraph [Mar. 2, 2010] shall be treated as a qualifying event.

“(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual’s continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

“(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

“(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

“(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual’s involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

“(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred on or after the date of the enactment of this paragraph.

“(18) RULES RELATED TO APRIL AND MAY 2010 EXTENSION.—In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after April 1, 2010 and prior to the date of the enactment of this paragraph [Apr. 15, 2010], rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.

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

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

“(A) premium assistance is provided under this section with respect to any COBRA continuation coverage which covers the taxpayer, the taxpayer’s spouse, or any dependent (within the meaning of section 152 of the Internal Revenue Code of 1986, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of the taxpayer during any portion of the taxable year, and

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

“(2) PHASE-IN OF RECAPTURE.—

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

“(B) PHASE-IN PERCENTAGE.—For purposes of this subsection, the term ‘phase-in percentage’ means the ratio (expressed as a percentage) obtained by dividing—

“(i) the excess of [sic] described in subparagraph (B) of paragraph (1), by

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

“(3) OPTION FOR HIGH-INCOME INDIVIDUALS TO WAIVE ASSISTANCE AND AVOID RECAPTURE.—Notwithstanding subsection (a)(3), an individual shall not be treated as an assistance eligible individual for purposes of this section and section 6432 of the Internal Revenue Code of 1986 if such individual—

“(A) makes a permanent election (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to waive the right to the premium assistance provided under this section, and

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

“(4) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term ‘modified adjusted gross income’ means the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 of such Code.

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

“(6) REGULATIONS.—The Secretary of the Treasury shall issue such regulations or other guidance as are necessary or appropriate to carry out this subsection, including requirements that the entity to whom premiums are reimbursed under section 6432(a) of the Internal Revenue Code of 1986 report to the Secretary, and to each assistance eligible individual, the amount of premium assistance provided under subsection (a) with respect to each such individual.

“(7) EFFECTIVE DATE.—The provisions of this subsection shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].”

[Pub. L. 111-157, §3(c), Apr. 15, 2010, 124 Stat. 1117, provided that: “The amendments made by this section [amending section 3001 of Pub. L. 111-5, set out above] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5].”]

[Pub. L. 111-118, div. B, §1010(e), Dec. 19, 2009, 123 Stat. 3473, provided that: “The amendments made by this section [amending section 3001 of Pub. L. 111-5, set out above] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5] to which they relate.”]

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¹ Section numbers editorially supplied.