

## COMMITTEE PRINT

### Budget Reconciliation Legislative Recommendations Relating to Continuation of Job-Based Coverage

# 1           **Subtitle F—Preserving Health** 2                           **Benefits for Workers**

## 3   **SEC. 9500. SHORT TITLE.**

4           This subtitle may be cited as the “Worker Health  
5 Coverage Protection Act”.

## 6   **SEC. 9501. PRESERVING HEALTH BENEFITS FOR WORKERS.**

7           (a) PREMIUM ASSISTANCE FOR COBRA CONTINU-  
8 ATION COVERAGE FOR INDIVIDUALS AND THEIR FAMI-  
9 LIES.—

10                   (1) PROVISION OF PREMIUM ASSISTANCE.—

11                           (A) REDUCTION OF PREMIUMS PAY-  
12 ABLE.—In the case of any premium for a pe-  
13 riod of coverage during the period beginning on  
14 the first day of the first month beginning after  
15 the date of the enactment of this Act, and end-  
16 ing on September 30, 2021, for COBRA con-  
17 tinuation coverage with respect to any assist-  
18 ance eligible individual described in paragraph  
19 (3), such individual shall be treated for pur-  
20 poses of any COBRA continuation provision as  
21 having paid the amount of such premium if

1 such individual pays (or any person other than  
2 such individual's employer pays on behalf of  
3 such individual) 15 percent of the amount of  
4 such premium.

5 (B) PLAN ENROLLMENT OPTION.—

6 (i) IN GENERAL.—Notwithstanding  
7 the COBRA continuation provisions, any  
8 assistance eligible individual who is en-  
9 rolled in a group health plan offered by a  
10 plan sponsor may, not later than 90 days  
11 after the date of notice of the plan enroll-  
12 ment option described in this subpara-  
13 graph, elect to enroll in coverage under a  
14 plan offered by such plan sponsor that is  
15 different than coverage under the plan in  
16 which such individual was enrolled at the  
17 time, in the case of any assistance eligible  
18 individual described in paragraph (3), the  
19 qualifying event specified in section 603(2)  
20 of the Employee Retirement Income Secu-  
21 rity Act of 1974, section 4980B(f)(3)(B)  
22 of the Internal Revenue Code of 1986, or  
23 section 2203(2) of the Public Health Serv-  
24 ice Act, except for the voluntary termi-  
25 nation of such individual's employment by

1 such individual, occurred, and such cov-  
2 erage shall be treated as COBRA continu-  
3 ation coverage for purposes of the applica-  
4 ble COBRA continuation coverage provi-  
5 sion.

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

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

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

21 (III) the different coverage in  
22 which the individual elects to enroll is  
23 coverage that is also offered to simi-  
24 larly situated active employees of the

1 employer at the time at which such  
2 election is made; and

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

6 (aa) coverage that provides  
7 only excepted benefits as defined  
8 in section 9832(c) of the Internal  
9 Revenue Code of 1986, section  
10 733(c) of the Employee Retirement  
11 Income Security Act of  
12 1974, and section 2791(c) of the  
13 Public Health Service Act;

14 (bb) a qualified small em-  
15 ployer health reimbursement ar-  
16 rangement (as defined in section  
17 9831(d)(2) of the Internal Rev-  
18 enue Code of 1986); or

19 (cc) a flexible spending ar-  
20 rangement (as defined in section  
21 106(c)(2) of the Internal Rev-  
22 enue Code of 1986).

23 (2) LIMITATION OF PERIOD OF PREMIUM AS-  
24 SISTANCE.—

1 (A) ELIGIBILITY FOR ADDITIONAL COV-  
2 ERAGE.—Paragraph (1)(A) shall not apply with  
3 respect to any assistance eligible individual de-  
4 scribed in paragraph (3) for months of coverage  
5 beginning on or after the earlier of—

6 (i) the first date that such individual  
7 is eligible for coverage under any other  
8 group health plan (other than coverage  
9 consisting of only excepted benefits (as de-  
10 fined in section 9832(c) of the Internal  
11 Revenue Code of 1986, section 733(c) of  
12 the Employee Retirement Income Security  
13 Act of 1974, and section 2791(c) of the  
14 Public Health Service Act), coverage under  
15 a flexible spending arrangement (as de-  
16 fined in section 106(c)(2) of the Internal  
17 Revenue Code of 1986), coverage under a  
18 qualified small employer health reimburse-  
19 ment arrangement (as defined in section  
20 9831(d)(2) of the Internal Revenue Code  
21 of 1986)), or eligible for benefits under the  
22 Medicare program under title XVIII of the  
23 Social Security Act; or

24 (ii) the earlier of—

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

6 (II) the date following the expira-  
7 tion of the period of continuation cov-  
8 erage allowed under paragraph  
9 (4)(B)(ii).

10 (B) NOTIFICATION REQUIREMENT.—Any  
11 assistance eligible individual shall notify the  
12 group health plan with respect to which para-  
13 graph (1)(A) applies if such paragraph ceases  
14 to apply by reason of clause (i) of subparagraph  
15 (A) (as applicable). Such notice shall be pro-  
16 vided to the group health plan in such time and  
17 manner as may be specified by the Secretary of  
18 Labor.

19 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For  
20 purposes of this section, the term “assistance eligible  
21 individual” means, with respect to a period of cov-  
22 erage during the period beginning on the first day  
23 of the first month beginning after the date of the en-  
24 actment of this Act, and ending on September 30,

1       2021, any individual that is a qualified beneficiary  
2       who—

3               (A) is eligible for COBRA continuation  
4               coverage by reason of a qualifying event speci-  
5               fied in section 603(2) of the Employee Retire-  
6               ment Income Security Act of 1974, section  
7               4980B(f)(3)(B) of the Internal Revenue Code  
8               of 1986, or section 2203(2) of the Public  
9               Health Service Act, except for the voluntary  
10              termination of such individual's employment by  
11              such individual; and

12              (B) elects such coverage.

13              (4) EXTENSION OF ELECTION PERIOD AND EF-  
14              FECT ON COVERAGE.—

15              (A) IN GENERAL.—For purposes of apply-  
16              ing section 605(a) of the Employee Retirement  
17              Income Security Act of 1974, section  
18              4980B(f)(5)(A) of the Internal Revenue Code  
19              of 1986, and section 2205(a) of the Public  
20              Health Service Act, in the case of—

21                      (i) an individual who does not have an  
22                      election of COBRA continuation coverage  
23                      in effect on the first day of the first month  
24                      beginning after the date of the enactment  
25                      of this Act but who would be an assistance

1 eligible individual described in paragraph  
2 (3) if such election were so in effect; or

3 (ii) an individual who elected COBRA  
4 continuation coverage and discontinued  
5 from such coverage before the first day of  
6 the first month beginning after the date of  
7 the enactment of this Act,

8 such individual may elect the COBRA continu-  
9 ation coverage under the COBRA continuation  
10 coverage provisions containing such provisions  
11 during the period beginning on the first day of  
12 the first month beginning after the date of the  
13 enactment of this Act and ending 60 days after  
14 the date on which the notification required  
15 under paragraph (6)(C) is provided to such in-  
16 dividual.

17 (B) COMMENCEMENT OF COBRA CONTINU-  
18 ATION COVERAGE.—Any COBRA continuation  
19 coverage elected by a qualified beneficiary dur-  
20 ing an extended election period under subpara-  
21 graph (A)—

22 (i) shall commence (including for pur-  
23 poses of applying the treatment of pre-  
24 mium payments under paragraph (1)(A)  
25 and any cost-sharing requirements for



1 items and services under a group health  
2 plan) with the first period of coverage be-  
3 ginning on or after the first day of the  
4 first month beginning after the date of the  
5 enactment of this Act, and

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

12 (5) EXPEDITED REVIEW OF DENIALS OF PRE-  
13 MIUM ASSISTANCE.—In any case in which an indi-  
14 vidual requests treatment as an assistance eligible  
15 individual described in paragraph (3) and is denied  
16 such treatment by the group health plan, the Sec-  
17 retary of Labor (or the Secretary of Health and  
18 Human Services in connection with COBRA con-  
19 tinuation coverage which is provided other than pur-  
20 suant to part 6 of subtitle B of title I of the Em-  
21 ployee Retirement Income Security Act of 1974), in  
22 consultation with the Secretary of the Treasury,  
23 shall provide for expedited review of such denial. An  
24 individual shall be entitled to such review upon ap-  
25 plication to such Secretary in such form and manner

1 as shall be provided by such Secretary, in consulta-  
2 tion with the Secretary of the Treasury. Such Sec-  
3 retary shall make a determination regarding such in-  
4 dividual's eligibility within 15 business days after re-  
5 ceipt of such individual's application for review  
6 under this paragraph. Such Secretary's determina-  
7 tion upon review of the denial shall be de novo and  
8 shall be the final determination of such Secretary. A  
9 reviewing court shall grant deference to such Sec-  
10 retary's determination. The provisions of this para-  
11 graph, paragraphs (1) through (4), and paragraphs  
12 (6) through (7) shall be treated as provisions of title  
13 I of the Employee Retirement Income Security Act  
14 of 1974 for purposes of part 5 of subtitle B of such  
15 title.

16 (6) NOTICES TO INDIVIDUALS.—

17 (A) GENERAL NOTICE.—

18 (i) IN GENERAL.—In the case of no-  
19 tices provided under section 606(a)(4) of  
20 the Employee Retirement Income Security  
21 Act of 1974 (29 U.S.C. 1166(4)), section  
22 4980B(f)(6)(D) of the Internal Revenue  
23 Code of 1986, or section 2206(4) of the  
24 Public Health Service Act (42 U.S.C.  
25 300bb-6(4)), with respect to individuals

1 who, during the period described in para-  
2 graph (3), become entitled to elect COBRA  
3 continuation coverage, the requirements of  
4 such provisions shall not be treated as met  
5 unless such notices include an additional  
6 written notification to the recipient in clear  
7 and understandable language of—

8 (I) the availability of premium  
9 assistance with respect to such cov-  
10 erage under this subsection; and

11 (II) the option to enroll in dif-  
12 ferent coverage if the employer per-  
13 mits assistance eligible individuals de-  
14 scribed in paragraph (3) to elect en-  
15 rollment in different coverage (as de-  
16 scribed in paragraph (1)(B)).

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

1 or administer the COBRA continuation  
2 coverage involved, provide rules requiring  
3 the provision of such notice.

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

10 (B) SPECIFIC REQUIREMENTS.—Each ad-  
11 ditional notification under subparagraph (A)  
12 shall include—

13 (i) the forms necessary for estab-  
14 lishing eligibility for premium assistance  
15 under this subsection;

16 (ii) the name, address, and telephone  
17 number necessary to contact the plan ad-  
18 ministrator and any other person main-  
19 taining relevant information in connection  
20 with such premium assistance;

21 (iii) a description of the extended elec-  
22 tion period provided for in paragraph  
23 (4)(A);

24 (iv) a description of the obligation of  
25 the qualified beneficiary under paragraph

1 (2)(B) and the penalty provided under sec-  
2 tion 6720C of the Internal Revenue Code  
3 of 1986 for failure to carry out the obliga-  
4 tion;

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

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

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

1 notification required to be provided under sub-  
2 paragraph (A) and failure to provide such no-  
3 tice shall be treated as a failure to meet the no-  
4 tice requirements under the applicable COBRA  
5 continuation provision.

6 (D) MODEL NOTICES.—Not later than 30  
7 days after the date of enactment of this Act,  
8 with respect to any assistance eligible individual  
9 described in paragraph (3), the Secretary of  
10 Labor, in consultation with the Secretary of the  
11 Treasury and the Secretary of Health and  
12 Human Services, shall prescribe models for the  
13 additional notification required under this para-  
14 graph.

15 (7) NOTICE OF EXPIRATION OF PERIOD OF  
16 PREMIUM ASSISTANCE.—

17 (A) IN GENERAL.—With respect to any as-  
18 sistance eligible individual, subject to subpara-  
19 graph (B), the requirements of section  
20 606(a)(4) of the Employee Retirement Income  
21 Security Act of 1974 (29 U.S.C. 1166(4)), sec-  
22 tion 4980B(f)(6)(D) of the Internal Revenue  
23 Code of 1986, or section 2206(4) of the Public  
24 Health Service Act (42 U.S.C. 300bb–6(4)),  
25 shall not be treated as met unless the plan ad-

1            administrator 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; and

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            (B) EXCEPTION.—The requirement for the  
17            group health plan administrator to provide the  
18            written notice under subparagraph (A) shall be  
19            waived if the premium assistance for such indi-  
20            vidual expires pursuant to clause (i) of para-  
21            graph (2)(A).

22            (C) PERIOD SPECIFIED.—For purposes of  
23            subparagraph (A), the period specified in this  
24            subparagraph is, with respect to the date of ex-  
25            piration of premium assistance for any assist-

1           ance eligible individual pursuant to a limitation  
2           requiring a notice under this paragraph, the pe-  
3           riod beginning on the day that is 45 days before  
4           the date of such expiration and ending on the  
5           day that is 15 days before the date of such ex-  
6           piration.

7                   (D) MODEL NOTICES.—Not later than 45  
8           days after the date of enactment of this Act,  
9           with respect to any assistance eligible indi-  
10          vidual, the Secretary of Labor, in consultation  
11          with the Secretary of the Treasury and the Sec-  
12          retary of Health and Human Services, shall  
13          prescribe models for the notification required  
14          under this paragraph.

15                  (8) REGULATIONS.—The Secretary of the  
16          Treasury and the Secretary of Labor may jointly  
17          prescribe such regulations or other guidance as may  
18          be necessary or appropriate to carry out the provi-  
19          sions of this subsection, including the prevention of  
20          fraud and abuse under this subsection, except that  
21          the Secretary of Labor and the Secretary of Health  
22          and Human Services may prescribe such regulations  
23          (including interim final regulations) or other guid-  
24          ance as may be necessary or appropriate to carry



1 out the provisions of paragraphs (5), (6), (7), and  
2 (9).

3 (9) OUTREACH.—

4 (A) IN GENERAL.—The Secretary of  
5 Labor, in consultation with the Secretary of the  
6 Treasury and the Secretary of Health and  
7 Human Services, shall provide outreach con-  
8 sisting of public education and enrollment as-  
9 sistance relating to premium assistance pro-  
10 vided under this subsection. Such outreach shall  
11 target employers, group health plan administra-  
12 tors, public assistance programs, States, insur-  
13 ers, and other entities as determined appro-  
14 priate by such Secretaries. Such outreach shall  
15 include an initial focus on those individuals  
16 electing continuation coverage who are referred  
17 to in paragraph (6)(C). Information on such  
18 premium assistance, including enrollment, shall  
19 also be made available on websites of the De-  
20 partments of Labor, Treasury, and Health and  
21 Human Services.

22 (B) ENROLLMENT UNDER MEDICARE.—  
23 The Secretary of Health and Human Services  
24 shall provide outreach consisting of public edu-  
25 cation. Such outreach shall target individuals

1 who lose health insurance coverage. Such out-  
2 reach shall include information regarding en-  
3 rollment for benefits under title XVIII of the  
4 Social Security Act (42 U.S.C. 1395 et seq.) for  
5 purposes of preventing mistaken delays of such  
6 enrollment by such individuals, including life-  
7 time penalties for failure of timely enrollment.

8 (10) DEFINITIONS.—For purposes of this sec-  
9 tion:

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

14 (B) COBRA CONTINUATION COVERAGE.—  
15 The term “COBRA continuation coverage”  
16 means continuation coverage provided pursuant  
17 to part 6 of subtitle B of title I of the Em-  
18 ployee Retirement Income Security Act of 1974  
19 (other than under section 609), title XXII of  
20 the Public Health Service Act, or section  
21 4980B of the Internal Revenue Code of 1986  
22 (other than subsection (f)(1) of such section in-  
23 sofar as it relates to pediatric vaccines), or  
24 under a State program that provides com-  
25 parable continuation coverage. Such term does

1 not include coverage under a health flexible  
2 spending arrangement under a cafeteria plan  
3 within the meaning of section 125 of the Inter-  
4 nal Revenue Code of 1986.

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

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

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

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

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

1 (H) PERIOD OF COVERAGE.—Any ref-  
2 erence in this subsection to a period of coverage  
3 shall be treated as a reference to a monthly or  
4 shorter period of coverage with respect to which  
5 premiums are charged with respect to such cov-  
6 erage.

7 (I) PLAN SPONSOR.—The term “plan  
8 sponsor” has the meaning given such term in  
9 section 3(16)(B) of the Employee Retirement  
10 Income Security Act of 1974.

11 (J) PREMIUM.—The term “premium” in-  
12 cludes, with respect to COBRA continuation  
13 coverage, any administrative fee.

14 (11) IMPLEMENTATION FUNDING.—In addition  
15 to amounts otherwise made available, out of any  
16 funds in the Treasury not otherwise appropriated,  
17 there are appropriated to the Secretary of Labor for  
18 fiscal year 2021, \$10,000,000, to remain available  
19 until expended, for the Employee Benefits Security  
20 Administration to carry out the provisions of this  
21 subtitle.

22 (b) COBRA PREMIUM ASSISTANCE.—

23 (1) ALLOWANCE OF CREDIT.—

24 (A) IN GENERAL.—Subchapter B of chap-  
25 ter 65 of the Internal Revenue Code of 1986 is

1           amended by adding at the end the following  
2           new section:

3   **“SEC. 6432. CONTINUATION COVERAGE PREMIUM ASSIST-**  
4                           **ANCE.**

5           “(a) IN GENERAL.—The person to whom premiums  
6 are payable for continuation coverage under section  
7 9501(a)(1) of the Worker Health Coverage Protection Act  
8 shall be allowed as a credit against the tax imposed by  
9 section 3111(b), or so much of the taxes imposed under  
10 section 3221(a) as are attributable to the rate in effect  
11 under section 3111(b), for each calendar quarter an  
12 amount equal to the premiums not paid by assistance eligi-  
13 ble individuals for such coverage by reason of such section  
14 9501(a)(1) with respect to such calendar quarter.

15           “(b) PERSON TO WHOM PREMIUMS ARE PAYABLE.—  
16 For purposes of subsection (a), except as otherwise pro-  
17 vided by the Secretary, the person to whom premiums are  
18 payable under such continuation coverage shall be treated  
19 as being—

20                   “(1) in the case of any group health plan which  
21 is a multiemployer plan (as defined in section 3(37)  
22 of the Employee Retirement Income Security Act of  
23 1974), the plan,

24                   “(2) in the case of any group health plan not  
25 described in paragraph (1), and under which some

1 or all of the coverage is not provided by insurance,  
2 the employer maintaining the plan, and

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

6 “(c) LIMITATIONS AND REFUNDABILITY.—

7 “(1) CREDIT LIMITED TO CERTAIN EMPLOY-  
8 MENT TAXES.—The credit allowed by subsection (a)  
9 with respect to any calendar quarter shall not exceed  
10 the tax imposed by section 3111(b), or so much of  
11 the taxes imposed under section 3221(a) as are at-  
12 tributable to the rate in effect under section  
13 3111(b), for such calendar quarter (reduced by any  
14 credits allowed against such taxes under sections  
15 7001 and 7003 of the Families First Coronavirus  
16 Response Act and section 2301 of the CARES Act)  
17 on the wages paid with respect to the employment  
18 of all employees of the employer.

19 “(2) REFUNDABILITY OF EXCESS CREDIT.—

20 “(A) CREDIT IS REFUNDABLE.—If the  
21 amount of the credit under subsection (a) ex-  
22 ceeds the limitation of paragraph (1) for any  
23 calendar quarter, such excess shall be treated  
24 as an overpayment that shall be refunded under  
25 sections 6402(a) and 6413(b).

1           “(B) CREDIT MAY BE ADVANCED.—In an-  
2           ticipation of the credit, including the refundable  
3           portion under subparagraph (A), the credit may  
4           be advanced, according to forms and instruc-  
5           tions provided by the Secretary, up to an  
6           amount calculated under subsection (a) through  
7           the end of the most recent payroll period in the  
8           quarter.

9           “(C) TREATMENT OF DEPOSITS.—The  
10          Secretary shall waive any penalty under section  
11          6656 for any failure to make a deposit of the  
12          tax imposed by section 3111(b), or so much of  
13          the taxes imposed under section 3221(a) as are  
14          attributable to the rate in effect under section  
15          3111(b), if the Secretary determines that such  
16          failure was due to the anticipation of the credit  
17          allowed under this section.

18          “(D) TREATMENT OF PAYMENTS.—For  
19          purposes of section 1324 of title 31, United  
20          States Code, any amounts due to an employer  
21          under this paragraph shall be treated in the  
22          same manner as a refund due from a credit  
23          provision referred to in subsection (b)(2) of  
24          such section.

1           “(3) OVERSTATEMENTS.—Any overstatement of  
2           the credit to which a person is entitled under this  
3           section (and any amount paid by the Secretary as a  
4           result of such overstatement) shall be treated as an  
5           underpayment by such person of the taxes described  
6           in paragraph (1) and may be assessed and collected  
7           by the Secretary in the same manner as such taxes.

8           “(d) GOVERNMENTAL ENTITIES.—For purposes of  
9           this section, the term ‘person’ includes the government of  
10          any State or political subdivision thereof, any Indian tribal  
11          government (as defined in section 139E(c)(1)), any agency  
12          or instrumentality of any of the foregoing, and any agency  
13          or instrumentality of the Government of the United States  
14          that is described in section 501(c)(1) and exempt from  
15          taxation under section 501(a).

16          “(e) DENIAL OF DOUBLE BENEFIT.—For purposes  
17          of chapter 1, the gross income of any person allowed a  
18          credit under this section shall be increased for the taxable  
19          year which includes the last day of any calendar quarter  
20          with respect to which such credit is allowed by the amount  
21          of such credit. No amount for which a credit is allowed  
22          under this section shall be taken into account as qualified  
23          wages under section 2301 of the CARES Act or as quali-  
24          fied health plan expenses under section 7001(d) or  
25          7003(d) of the Families First Coronavirus Response Act.



1       “(f) REGULATIONS.—The Secretary shall issue such  
2 regulations, or other guidance, forms, instructions, and  
3 publications, as may be necessary or appropriate to carry  
4 out this section, including—

5           “(1) the requirement to report information or  
6 the establishment of other methods for verifying the  
7 correct amounts of reimbursements under this sec-  
8 tion,

9           “(2) the application of this section to group  
10 health plans that are multiemployer plans (as de-  
11 fined in section 3(37) of the Employee Retirement  
12 Income Security Act of 1974),

13           “(3) to allow the advance payment of the credit  
14 determined under subsection (a), subject to the limi-  
15 tations provided in this section, based on such infor-  
16 mation as the Secretary shall require,

17           “(4) to provide for the reconciliation of such  
18 advance payment with the amount of the credit at  
19 the time of filing the return of tax for the applicable  
20 quarter or taxable year, and

21           “(5) allowing the credit to third party payors  
22 (including professional employer organizations, cer-  
23 tified professional employer organizations, or agents  
24 under section 3504).”.

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

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

5 (C) EFFECTIVE DATE.—The amendments  
6 made by this paragraph shall apply to pre-  
7 miums to which subsection (a)(1)(A) applies  
8 and wages paid on or after April 1, 2021.

9 (D) SPECIAL RULE IN CASE OF EMPLOYEE  
10 PAYMENT THAT IS NOT REQUIRED UNDER THIS  
11 SECTION.—

12 (i) IN GENERAL.—In the case of an  
13 assistance eligible individual who pays,  
14 with respect any period of coverage to  
15 which subsection (a)(1)(A) applies, the  
16 amount of the premium for such coverage  
17 that the individual would have (but for this  
18 Act) been required to pay, the person to  
19 whom such payment is payable shall reim-  
20 burse such individual for the amount of  
21 such premium paid in excess of the  
22 amount required to be paid under sub-  
23 section (a)(1)(A).

24 (ii) CREDIT OF REIMBURSEMENT.—A  
25 person to which clause (i) applies shall be

1 allowed a credit in the manner provided  
2 under section 6432 of the Internal Rev-  
3 enue Code of 1986 for any payment made  
4 to the employee under such clause.

5 (iii) PAYMENT OF CREDITS.—Any  
6 person to which clause (i) applies shall  
7 make the payment required under such  
8 clause to the individual not later than 60  
9 days after the date on which such indi-  
10 vidual elects continuation coverage under  
11 subsection (a)(1).

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

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

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

23 “(a) IN GENERAL.—Except in the case of a failure  
24 described in subsection (b) or (c), any person required to  
25 notify a group health plan under section 9501(a)(2)(B)

1 of the Worker Health Coverage Protection Act who fails  
2 to make such a notification at such time and in such man-  
3 ner as the Secretary of Labor may require shall pay a  
4 penalty of \$250 for each such failure.

5 “(b) INTENTIONAL FAILURE.—In the case of any  
6 such failure that is fraudulent, such person shall pay a  
7 penalty equal to the greater of—

8 “(1) \$250, or

9 “(2) 110 percent of the premium assistance  
10 provided under section 9501(a)(1)(A) of the Worker  
11 Health Coverage Protection Act after termination of  
12 eligibility under such section.

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

17 (B) CLERICAL AMENDMENT.—The table of  
18 sections of part I of subchapter B of chapter 68  
19 of such Code is amended by adding at the end  
20 the following new item:

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

21 (3) COORDINATION WITH HCTC.—

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

1           “(9) CONTINUATION COVERAGE PREMIUM AS-  
2           SISTANCE.—In the case of an assistance eligible in-  
3           dividual who receives premium assistance for con-  
4           tinuation coverage under section 9501(a)(1) of the  
5           Worker Health Coverage Protection Act 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          (4) EXCLUSION OF CONTINUATION COVERAGE  
16          PREMIUM ASSISTANCE 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          139H the following new section:

21       **“SEC. 139I. CONTINUATION COVERAGE PREMIUM ASSIST-**  
22       **ANCE.**

23       “**In the case of an assistance eligible individual (as**  
24       **defined in subsection (a)(3) of section 9501 of the Worker**  
25       **Health Coverage Protection Act), gross income does not**

1 include any premium assistance provided under subsection  
2 (a)(1) 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 139H the following  
7 new item:

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

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

