116TH CONGRESS
2d Session

S.

To preserve health benefits for workers.

IN THE SENATE OF THE UNITED STATES

Mr. Durbin (for himself, Ms. Cortez Masto, Mr. Brown, Mrs. Shaheen, Ms. Smith, Ms. Klobuchar, Mrs. Feinstein, Mr. Bennet, Mr. Reed, Mr. Merkley, Mr. Blumenthal, Ms. Duckworth, Ms. Stabenow, Ms. Rosen, and Mr. Menendez) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To preserve health benefits for workers.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. PRESERVING HEALTH BENEFITS FOR WORKERS.

(a) PREMIUM ASSISTANCE FOR COBRA CONTINU-
ATION COVERAGE AND FURLoughED CONTINUATION
COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.—

(1) Provision of premium assistance.—
(A) Reduction of premiums payable.—

(i) COBRA continuation coverage.—In the case of any premium for a period of coverage during the period beginning on March 1, 2020, and ending on January 31, 2021 for COBRA continuation coverage with respect to any assistance eligible individual described in paragraph (3)(A), such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays (and any person other than such individual’s employer pays on behalf of such individual) 0 percent of the amount of such premium owed by such individual (as determined without regard to 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 January 31, 2021, for coverage under a group health plan with respect to any as-
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sistance eligible individual described in paragraph (3)(B), such individual shall be treated for purposes of coverage under the plan offered by the plan sponsor in which the individual is enrolled as having paid the amount of such premium if such indi-

dividual pays (and any person other than such individual’s employer pays on behalf of such individual) 0 percent of the amount of such premium owed by such indi-

dividual (as determined without regard to this subsection).

(B) PLAN ENROLLMENT OPTION.—

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

rolled in a group health plan offered by a plan sponsor, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, may elect to enroll in coverage under a plan of-

fered by such plan sponsor that is different than coverage under the plan in which such individual was enrolled at the time—
(I) in the case of any assistance eligible individual described in paragraph (3)(A), the qualifying event specified in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), section 4980B(f)(3)(B) of the Internal Revenue Code of 1986, section 2203(2) of the Public Health Service Act (42 U.S.C. 300bb–3(2)), or section 8905a of title 5, United States Code (except for the voluntary termination of such individual’s employment by such individual), occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision; or

(II) in the case of any assistance eligible individual described in paragraph (3)(B), the furlough period began with respect to such individual.

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

(I) the employer involved has made a determination that such employer will permit such assistance eligible individual to enroll in different coverage as provided under this subparagraph;

(II) the premium for such different coverage does not exceed the premium for coverage in which such individual was enrolled at the time such qualifying event occurred or immediately before such furlough began;

(III) the different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer, who are not in a furlough period, at the time at which such election is made; and

(IV) the different coverage in which the individual elects to enroll is not—
(aa) coverage that provides only dental, vision, counseling, or referral services (or a combination of such services);

(bb) a qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of the Internal Revenue Code of 1986);

(cc) a flexible spending arrangement (as defined in section 106(e)(2) of the Internal Revenue Code of 1986); or

(dd) benefits that provide coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination of such care).

(C) PREMIUM REIMBURSEMENT.—For provisions providing the payment of such premium,
(2) Limitation of period of premium assistance.—

(A) Eligibility for additional coverage.—Paragraph (1)(A) shall not apply with respect to—

(i) any assistance eligible individual described in paragraph (3)(A) for months of coverage beginning on or after the earlier of—

(I) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986), coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care,
or similar care (or a combination thereof), or eligible for benefits under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); or

(II) the earlier of—

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

(bb) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii); or

(ii) any assistance eligible individual described in paragraph (3)(B) for months of coverage beginning on or after the earlier of—

(I) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral serv-
ices (or a combination thereof), coverage under a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986), coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof), or eligible for benefits under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); or

(II) the first date that such individual is no longer in the furlough period.

(B) Notification Requirement.—Any assistance eligible individual shall notify the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of clause (i)(I) or (ii)(I) of subparagraph (A) (as applicable). Such notice shall be provided to the group health plan in
such time and manner as may be specified by
the Secretary of Labor.

(C) SPECIAL ENROLLMENT PERIOD FOLLOWING EXPIRATION OF PREMIUM ASSISTANCE.—Notwithstanding section 1311 of the Patient Protection and Affordable Care Act (42 U.S.C. 18031), the expiration of premium assistance pursuant to a limitation specified under subparagraph (A) shall be treated as a qualifying event for which any assistance eligible individual is eligible to enroll in a qualified health plan offered through an Exchange under title I of such Act (42 U.S.C. 18001 et seq.) during a special enrollment period.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term "assistance eligible individual" means, with respect to a period of coverage during the period beginning on March 1, 2020, and ending on January 31, 2021—

(A) any individual that is a qualified beneficiary that—

(i) is eligible for COBRA continuation coverage by reason of a qualifying event specified in section 603(2) of the Employee Retirement Income Security Act of 1974
(29 U.S.C. 1163(2)), section 4980B(f)(3)(B) of the Internal Revenue Code of 1986, section 2203(2) of the Public Health Service Act (42 U.S.C.300bb–3(2)), or section 8905a of title 5, United States Code (except for the voluntary termination of such individual’s employment by such individual); and

(ii) elects such coverage; or

(B) any covered employee that is in a furlough period that remains eligible for coverage under a group health plan offered by the employer of such covered employee.

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

(A) IN GENERAL.—For purposes of applying section 605(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(a)), section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act (42 U.S.C. 300bb–5(a)), and section 8905a(c)(2) of title 5, United States Code, in the case of—

(i) an individual who does not have an election of COBRA continuation coverage
in effect on the date of the enactment of this Act but who would be an assistance eligible individual described in paragraph (3)(A) if such election were so in effect; or

(ii) an individual who elected COBRA continuation coverage on or after March 1, 2020, and discontinued from such coverage before the date of the enactment of this Act,

such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such provisions during the period beginning on the date of the enactment of this Act and ending 60 days after the date on which the notification required under paragraph (7)(C) is provided to such individual.

(B) Commencement of COBRA continuation coverage.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

(i) shall apply as if such qualified beneficiary had been covered as of the date of a qualifying event specified in section
603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), section 4980B(f)(3)(B) of the Internal Revenue Code of 1986, section 2203(2) of the Public Health Service Act (42 U.S.C. 300bb–3(2)), or section 8905a of title 5, United States Code, except for the voluntary termination of such beneficiary’s employment by such beneficiary, that occurs no earlier than March 1, 2020 (including the treatment of premium payments under paragraph (1)(A) and any cost-sharing requirements for items and services under a group health plan); and

(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual described in subparagraph (A) or (B) of paragraph (3) and is denied such treatment by the
group health plan, the Secretary of Labor (or the
Secretary of Health and Human Services in connec-
tion with COBRA continuation coverage which is
provided other than pursuant to part 6 of subtitle B
of title I of the Employee Retirement Income Secu-
rity Act of 1974 (29 U.S.C. 1161 et seq.), in con-
sultation with the Secretary of the Treasury, shall
provide for expedited review of such denial. An indi-
vidual shall be entitled to such review upon applica-
tion to such Secretary in such form and manner as
shall be provided by such Secretary, in consultation
with the Secretary of Treasury. Such Secretary shall
make a determination regarding such individual’s
eligibility within 15 business days after receipt of
such individual’s application for review under this
paragraph. Either Secretary’s determination upon
review of the denial shall be de novo and shall be the
final determination of such Secretary. A reviewing
court shall grant deference to such Secretary’s deter-
mination. The provisions of this paragraph, para-
graphs (1) through (4), and paragraphs (7) through
(9) shall be treated as provisions of title I of the
Employee Retirement Income Security Act of 1974
(29 U.S.C. 1001 et seq.) for purposes of part 5 of
subtitle B of such title.
(6) Disregard of subsidies for purposes of federal and state programs.—Notwithstanding any other provision of law, any premium assistance with respect to an assistance eligible individual under this subsection shall not be considered income, in-kind support, or resources for purposes of determining the eligibility of the recipient (or the recipient’s spouse or family) for benefits or assistance, or the amount or extent of benefits or assistance, or any other benefit provided under any Federal program or any program of a State or political subdivision thereof financed in whole or in part with Federal funds.

(7) COBRA-specific notice.—

(A) General notice.—

(i) In general.—In the case of notices provided under 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, with respect to individuals who, during the period described in
paragraph (3), become entitled to elect COBRA continuation coverage, the requirements of such provisions shall not be treated as met unless such notices include an additional notification to the recipient a written notice in clear and understandable language of—

(I) the availability of premium assistance with respect to such coverage under this subsection; and

(II) the option to enroll in different coverage if the employer permits assistance eligible individuals described in paragraph (3)(A) to elect enrollment in different coverage (as described in paragraph (1)(B)).

(ii) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in consultation with administrators of the group health plans (or other entities) that provide
or administer the COBRA continuation
coverage involved, provide rules requiring
the provision of such notice.

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

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

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

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

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

(iv) a description of the obligation of
the qualified beneficiary under paragraph
(2)(B) and the penalty provided under section 6720C of the Internal Revenue Code of 1986 for failure to carry out the obligation;

(v) a description, displayed in a prominent manner, of the qualified beneficiary’s right to a reduced premium and any conditions on entitlement to the reduced premium;

(vi) a description of the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B); and

(vii) information regarding any Exchange established under title I of the Patient Protection and Affordable Care Act (42 U.S.C. 18001 et seq.) through which a qualified beneficiary may be eligible to enroll in a qualified health plan, including—

(I) the publicly accessible internet website address for such Exchange;

(II) the publicly accessible internet website address for the Find
Local Help directory maintained by the Department of Health and Human Services on the healthcare.gov internet website (or a successor website);

(III) a clear explanation that—

(aa) an individual who is eligible for continuation coverage may also be eligible to enroll, with financial assistance, in a qualified health plan offered through such Exchange, but, in the case that such individual elects to enroll in such continuation coverage and subsequently elects to terminate such continuation coverage before the period of such continuation coverage expires, such termination does not initiate a special enrollment period (absent a qualifying event specified in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), section 4980B(f)(3)(B)
of the Internal Revenue Code of 1986, section 2203(2) of the Public Health Service Act (42 U.S.C. 300bb–3(2)), or section 8905a of title 5, United States Code, with respect to such individual); and

(bb) an individual who elects to enroll in continuation coverage will remain eligible to enroll in a qualified health plan offered through such Exchange during an open enrollment period and may be eligible for financial assistance with respect to enrolling in such a qualified health plan;

(IV) information on consumer protections with respect to enrolling in a qualified health plan offered through such Exchange, including the requirement for such a qualified health plan to provide coverage for essential health benefits (as defined in section 1302(b) of such Act (42 U.S.C. 18022(b))) and the require-
ments applicable to such a qualified health plan under part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.);

(V) information on the availability of financial assistance with respect to enrolling in a qualified health plan, including the maximum income limit for eligibility for the premium tax credit under section 36B of the Internal Revenue Code of 1986; and

(VI) information on any special enrollment periods during which any assistance eligible individual described in paragraph (3)(A)(i) may be eligible to enroll, with financial assistance, in a qualified health plan offered through such Exchange (including a special enrollment period for which an individual may be eligible due to the expiration of premium assistance pursuant to a limitation specified under paragraph (2)(A)).

(C) NOTICE IN CONNECTION WITH EXTENDED ELECTION PERIODS.—In the case of
any assistance eligible individual described in paragraph (3)(A) (or any individual described in paragraph (4)(A)) who became entitled to elect COBRA continuation coverage before the date of the enactment of this Act, the administrator of the applicable group health plan (or other entity) shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A) and failure to provide such notice shall be treated as a failure to meet the notice requirements under the applicable COBRA continuation provision.

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

(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 additional notification required under this paragraph (other than the additional notification described in clause (ii)); and
(ii) in the case of any additional 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 additional notification.

(8) FURLOUGH-SPECIFIC NOTICE.—

(A) IN GENERAL.—With respect to any assistance eligible individual described in paragraph (3)(B) who, during the period described in such paragraph, becomes eligible for assistance pursuant to paragraph (1)(A)(ii), 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 group health plan administrator, in accordance with the timing requirement specified under subparagraph (B), provides to the individual a written notice in clear and understandable language of—
(i) the availability of premium assistance with respect to such coverage under this subsection;

(ii) the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B); and

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

(B) TIMING SPECIFIED.—For purposes of subparagraph (A), the timing requirement specified in this subparagraph is—

(i) with respect to such an individual who is within a furlough period during the period beginning on March 1, 2020, and ending on the date of the enactment of this Act, 30 days after the date of such enactment; and

(ii) with respect to such an individual who is within a furlough period during the period beginning on the first day after the date of the enactment of this Act and ending on January 31, 2021, 30 days after
the date of the beginning of such furlough period.

(C) Model Notices.—Not later than 30 days after the date of enactment of this Act, with respect to any assistance eligible individual 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 employer of the individual, during the period specified under subparagraph (C), provides to such individual a written notice in clear and understandable language—

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

(ii) that such individual may be eligible for coverage without any premium assistance through—

(I) COBRA continuation coverage; or

(II) coverage under a group health plan;

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

(iv) the information specified in paragraph (7)(B)(vii).

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

(C) PERIOD SPECIFIED.—For purposes of subparagraph (A), the period specified in this subparagraph is, with respect to the date of expiration of premium assistance for any assistance eligible individual pursuant to a limitation requiring a notice under this paragraph, the period beginning on the day that is 45 days before the date of such expiration and ending on the day that is 15 days before the date of such expiration.

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act,
with respect to any assistance eligible individual—

(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.

(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.—

(A) IN GENERAL.—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 assistance provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium assistance, including enrollment, shall also be made available on websites of the Departments of Labor, Treasury, and Health and Human Services.

(B) ENROLLMENT UNDER MEDICARE.—

The Secretary of Health and Human Services shall provide outreach consisting of public education. Such outreach shall target individuals
who lose health insurance coverage. Such outreach shall include information regarding enrollment for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for purposes of preventing mistaken delays of such enrollment by such individuals, including lifetime penalties for failure of timely enrollment.

(12) DEFINITIONS.—For purposes of this section:

(A) ADMINISTRATOR.—The term “administrator” has the meaning given such term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

(B) COBRA CONTINUATION COVERAGE.—The term “COBRA continuation coverage” means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides comparable continuation
coverage. Such term does not include coverage under a health flexible spending arrangement under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986.

(C) COBRA CONTINUATION PROVISION.—The term “COBRA continuation provision” means the provisions of law described in subparagraph (B).

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

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

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

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

(H) Period of Coverage.—Any reference in this subsection to a period of coverage shall be treated as a reference to a monthly or shorter period of coverage with respect to which premiums are charged with respect to such coverage.

(I) Plan Sponsor.—The term “plan sponsor” has the meaning given such term in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

(J) Furlough Period.—

(i) In General.—The term “furlough period” means, with respect to an individual and an employer of such individual, a period—

(II) beginning with the first month beginning on or after March 1, 2020 and before January 31, 2021, during which such individual’s employer reduces such individual’s work hours (due to a lack of work, funds, or other nondisciplinary reason) to an
amount that is less than 70 percent of
the base month amount; and

(II) ending with the earlier of—

(aa) the first month begin-
ning after January 31, 2021; or

(bb) the month following the
first month during which work
hours of such employee are grea-
ter than 80 percent of work hours
of the base month amount.

(ii) BASE MONTH AMOUNT.—For pur-
poses of clause (i), the term "base month
amount" means, with respect to an indi-
vidual and an employer of such individual,
the greater of—

(I) such individual’s work hours
in the month prior (or in the case
such individual had no work hours in
the month prior and had work hours
in the 3 months prior, the last month
with work hours within the prior 3
months); and

(II) such individual’s work hours
during the period beginning January

(13) REPORTS.—

(A) INTERIM REPORT.—The Secretary of the Treasury and the Secretary of Labor shall jointly submit an interim report to the Committee on Education and Labor, the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium assistance provided under this subsection that includes—

(i) the number of individuals provided such assistance as of the date of the report; and

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

(B) FINAL REPORT.—As soon as practicable after the last period of COBRA continuation coverage for which premium assistance is provided under this section, the Secretary of the
Treasury and the Secretary of Labor shall jointly submit a final report to each Committee referred to in subparagraph (A) that includes—

(i) the number of individuals provided premium assistance under this section;

(ii) the average dollar amount (monthly and annually) of premium assistance provided to such individuals; and

(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium assistance under this section.

(14) COBRA PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 6432. CONTINUATION COVERAGE PREMIUM ASSISTANCE.

“(a) IN GENERAL.—The person to whom premiums are payable for continuation coverage under section 2(a)(1) of the Worker Health Coverage Protection Act shall be allowed as a credit against the tax imposed by section 3111(a), or so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect
under section 3111(a), for each calendar quarter an amount equal to the premiums not paid by assistance eligible individuals for such coverage by reason of such section 2(a)(1) with respect to such calendar quarter.

“(b) Person to Whom Premiums Are Payable.—
For purposes of subsection (a), except as otherwise provided by the Secretary, the person to whom premiums are payable under such continuation coverage shall be treated as being—

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

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

“(A) which provides furlough continuation coverage described in section 2(a)(1)(A)(ii) of the Worker Health Coverage Protection Act or subject to the COBRA continuation provisions contained in—

“(i) this title,
“(ii) the Employee Retirement Income Security Act of 1974,
“(iii) the Public Health Service Act, or
“(iv) title 5, United States Code, or

“(B) under which some or all of the coverage is not provided by insurance,

the employer maintaining the plan, and

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

“(c) LIMITATIONS AND REFUNDABILITY.—

“(1) CREDIT LIMITED TO CERTAIN EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the tax imposed by section 3111(a), or so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(a), for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111, sections 7001 and 7003 of the Families First Coronavirus Response Act, section 2301 of the CARES Act, and sections 20204 and 20212 of the COVID–19 Tax Relief Act of 2020 for such quarter) on the wages paid with respect to the employment of all employees of the employer.

“(2) REFUNDABILITY OF EXCESS CREDIT.—

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

“(B) Credit may be advanced.—In anticipation of the credit, including the refundable portion under subparagraph (A), the credit may be advanced, according to forms and instructions provided by the Secretary, up to an amount calculated under subsection (a) through the end of the most recent payroll period in the quarter.

“(C) Treatment of deposits.—The Secretary shall waive any penalty under section 6656 for any failure to make a deposit of the tax imposed by section 3111(a), or so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(a), if the Secretary determines that such failure was due to the anticipation of the credit allowed under this section.

“(D) Treatment of payments.—For purposes of section 1324 of title 31, United States Code, any amounts due to an employer under this paragraph shall be treated in the
same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

“(3) LIMITATION ON REIMBURSEMENT FOR FURLoughED EMPLOYEES.—In the case of an individual who for any month is an assistance eligible individual described in section 2(a)(3)(B) of the Worker Health Coverage Protection Act with respect to any coverage, the credit determined with respect to such individual under subsection (a) for any such month ending during a calendar quarter shall not exceed the amount of premium the individual would have paid for a full month of such coverage for the month preceding the first month for which an individual is such an assistance eligible individual.

“(d) GOVERNMENTAL ENTITIES.—For purposes of this section, the term ‘person’ includes any governmental entity or Indian tribal government (as defined in section 139E(c)(1)).

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

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

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

“(2) a report of the amount of payroll taxes off-
set under subsection (a) for the reporting period,
and

“(3) a report containing the TINs of all covered
employees, the amount of subsidy reimbursed with
respect to each employee, and a designation with re-
spect to each employee as to whether the subsidy re-
imbursement is for coverage of 1 individual or 2 or
more individuals.
“(g) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including—

“(1) the requirement to report information or the establishment of other methods for verifying the correct amounts of reimbursements under this section,

“(2) the application of this section to group health plans that are multiemployer plans (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

“(3) to allow the advance payment of the credit determined under subsection (a), subject to the limitations provided in this section, based on such information as the Secretary shall require,

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

“(5) with respect to the application of the credit to third party payors (including professional employer organizations, certified professional employer organizations, or agents under section 3504).”.

(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS.—There are hereby appropriated to
the Federal Old-Age and Survivors Insurance
Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subparagraph).

Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

(C) Clerical Amendment.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

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

(D) Effective Date.—The amendments made by this paragraph shall apply to premiums to which paragraph (1)(A) applies.
(E) Special rule in case of employee payment that is not required under this section.—

(i) In general.—In the case of an assistance eligible individual who pays, with respect any period of coverage to which paragraph (1)(A) applies, the amount of the premium for such coverage that the individual would have (but for this Act) been required to pay, the person to whom such payment is payable shall reimburse such individual for the amount of such premium paid.

(ii) Credit of reimbursement.—A person to which clause (i) applies shall be allowed a credit in the manner provided under section 6432 of the Internal Revenue Code of 1986 for any payment made to the employee under such clause.

(iii) Payment of credits.—Any person to which clause (i) applies shall make the payment required under such clause to the individual not later than 60 days after the date on which such indi-
individual elects continuation coverage under paragraph (1).

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

(A) **IN GENERAL.**—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR CONTINUATION COVERAGE PREMIUM ASSISTANCE."

"(a) **IN GENERAL.**—Except in the case of failure described in subsection (b) or (c), any person required to notify a group health plan under section 2(a)(2)(B) of the Worker Health Coverage Protection Act who fails to make such a notification at such time and in such manner as the Secretary of Labor may require shall pay a penalty of $250.

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

"(1) $250, or"
“(2) 110 percent of the premium assistance provided under section 2(a)(1)(A) of such Act after termination of eligibility under such section.

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

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

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

(16) COORDINATION WITH HCTC.—

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

“(9) CONTINUATION COVERAGE PREMIUM ASSISTANCE.—In the case of an assistance eligible individual who receives premium assistance for continuation coverage under section 2(a)(1) of the Worker Health Coverage Protection Act for any month during the taxable year, such individual shall not be treated as an eligible individual, a certified individual, or a qualifying family member for pur-
poses of this section or section 7527 with respect to such month.’’.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

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

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

“SEC. 139I. CONTINUATION COVERAGE PREMIUM ASSISTANCE.

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

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

“Sec. 139I. Continuation coverage premium assistance.”.
(C) **Effective Date.**—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act.

(18) **Deadlines with respect to notices.**—Notwithstanding section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986, the Secretary of Labor and the Secretary of the Treasury, respectively, may not waive or extend any deadline with respect to the provision of notices described in paragraphs (7), (8), and (9).

(b) **Rule of Construction.**—In all matters of interpretation, rules, and operational procedures, the language of this section shall be interpreted broadly for the benefit of workers and their families.