

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO THE COMMITTEE PRINT RELATING TO
CONTINUATION OF JOB-BASED COVERAGE
OFFERED BY MR. NEAL OF MASSACHUSETTS**

In lieu of the proposed recommendations, insert the following:

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-

1 ance eligible individual described in paragraph
2 (3), such individual shall be treated for pur-
3 poses of any COBRA continuation provision as
4 having paid the amount of such premium if
5 such individual pays (or any person other than
6 such individual's employer pays on behalf of
7 such individual) 15 percent of the amount of
8 such premium.

9 (B) PLAN ENROLLMENT OPTION.—

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

1 of the Internal Revenue Code of 1986, or
2 section 2203(2) of the Public Health Serv-
3 ice Act, except for the voluntary termi-
4 nation of such individual's employment by
5 such individual, occurred, and such cov-
6 erage shall be treated as COBRA continu-
7 ation coverage for purposes of the applica-
8 ble COBRA continuation coverage provi-
9 sion.

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

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

20 (II) the premium for such dif-
21 ferent coverage does not exceed the
22 premium for coverage in which such
23 individual was enrolled at the time
24 such qualifying event occurred;

1 (III) the different coverage in
2 which the individual elects to enroll is
3 coverage that is also offered to simi-
4 larly situated active employees of the
5 employer at the time at which such
6 election is made; and

7 (IV) the different coverage in
8 which the individual elects to enroll is
9 not—

10 (aa) coverage that provides
11 only excepted benefits as defined
12 in section 9832(c) of the Internal
13 Revenue Code of 1986, section
14 733(c) of the Employee Retire-
15 ment Income Security Act of
16 1974, and section 2791(c) of the
17 Public Health Service Act;

18 (bb) a qualified small em-
19 ployer health reimbursement ar-
20 rangement (as defined in section
21 9831(d)(2) of the Internal Rev-
22 enue Code of 1986); or

23 (cc) a flexible spending ar-
24 rangement (as defined in section

1 106(c)(2) of the Internal Rev-
2 enue Code of 1986).

3 (2) LIMITATION OF PERIOD OF PREMIUM AS-
4 SISTANCE.—

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

10 (i) the first date that such individual
11 is eligible for coverage under any other
12 group health plan (other than coverage
13 consisting of only excepted benefits (as de-
14 fined in section 9832(c) of the Internal
15 Revenue Code of 1986, section 733(c) of
16 the Employee Retirement Income Security
17 Act of 1974, and section 2791(c) of the
18 Public Health Service Act), coverage under
19 a flexible spending arrangement (as de-
20 fined in section 106(c)(2) of the Internal
21 Revenue Code of 1986), coverage under a
22 qualified small employer health reimburse-
23 ment arrangement (as defined in section
24 9831(d)(2) of the Internal Revenue Code
25 of 1986)), or eligible for benefits under the

1 Medicare program under title XVIII of the
2 Social Security Act; or

3 (ii) the earlier of—

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

9 (II) the date following the expira-
10 tion of the period of continuation cov-
11 erage allowed under paragraph
12 (4)(B)(ii).

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

22 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For
23 purposes of this section, the term “assistance eligible
24 individual” means, with respect to a period of cov-
25 erage during the period beginning on the first day

1 of the first month beginning after the date of the en-
2 actment of this Act, and ending on September 30,
3 2021, any individual that is a qualified beneficiary
4 who—

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

14 (B) elects such coverage.

15 (4) EXTENSION OF ELECTION PERIOD AND EF-
16 FECT ON COVERAGE.—

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

23 (i) an individual who does not have an
24 election of COBRA continuation coverage
25 in effect on the first day of the first month

1 beginning after the date of the enactment
2 of this Act but who would be an assistance
3 eligible individual described in paragraph
4 (3) if such election were so in effect; or

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

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

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

24 (i) shall commence (including for pur-
25 poses of applying the treatment of pre-

1 mium payments under paragraph (1)(A)
2 and any cost-sharing requirements for
3 items and services under a group health
4 plan) with the first period of coverage be-
5 ginning on or after the first day of the
6 first month beginning after the date of the
7 enactment of this Act, and

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

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

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

18 (6) NOTICES TO INDIVIDUALS.—

19 (A) GENERAL NOTICE.—

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

1 Public Health Service Act (42 U.S.C.
2 300bb–6(4)), with respect to individuals
3 who, during the period described in para-
4 graph (3), become entitled to elect COBRA
5 continuation coverage, the requirements of
6 such provisions shall not be treated as met
7 unless such notices include an additional
8 written notification to the recipient in clear
9 and understandable language of—

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

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

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

1 sultation with administrators of the group
2 health plans (or other entities) that provide
3 or administer the COBRA continuation
4 coverage involved, provide rules requiring
5 the provision of such notice.

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

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

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

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

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

1 (iv) a description of the obligation of
2 the qualified beneficiary under paragraph
3 (2)(B) and the penalty provided under sec-
4 tion 6720C of the Internal Revenue Code
5 of 1986 for failure to carry out the obliga-
6 tion;

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

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

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

1 entity) shall provide (within 60 days after such
2 first day of such first month) for the additional
3 notification required to be provided under sub-
4 paragraph (A) and failure to provide such no-
5 tice shall be treated as a failure to meet the no-
6 tice requirements under the applicable COBRA
7 continuation provision.

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

17 (7) NOTICE OF EXPIRATION OF PERIOD OF
18 PREMIUM ASSISTANCE.—

19 (A) IN GENERAL.—With respect to any as-
20 sistance eligible individual, subject to subpara-
21 graph (B), the requirements of section
22 606(a)(4) of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1166(4)), sec-
24 tion 4980B(f)(6)(D) of the Internal Revenue
25 Code of 1986, or section 2206(4) of the Public

1 Health Service Act (42 U.S.C. 300bb–6(4)),
2 shall not be treated as met unless the plan ad-
3 ministrator of the individual, during the period
4 specified under subparagraph (C), provides to
5 such individual a written notice in clear and un-
6 derstandable language—

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

11 (ii) that such individual may be eligi-
12 ble for coverage without any premium as-
13 sistance through—

14 (I) COBRA continuation cov-
15 erage; or

16 (II) coverage under a group
17 health plan.

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

24 (C) PERIOD SPECIFIED.—For purposes of
25 subparagraph (A), the period specified in this

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

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

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

1 ance as may be necessary or appropriate to carry
2 out the provisions of paragraphs (5), (6), (7), and
3 (9).

4 (9) OUTREACH.—

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

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

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

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

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

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

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

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

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

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

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

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

1 ican Samoa, and the Commonwealth of the
2 Northern Mariana Islands.

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

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

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

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

24 (b) COBRA PREMIUM ASSISTANCE.—

25 (1) ALLOWANCE OF CREDIT.—

1 (A) IN GENERAL.—Subchapter B of chap-
2 ter 65 of the Internal Revenue Code of 1986 is
3 amended by adding at the end the following
4 new section:

5 **“SEC. 6432. CONTINUATION COVERAGE PREMIUM ASSIST-**
6 **ANCE.**

7 “(a) IN GENERAL.—The person to whom premiums
8 are payable for continuation coverage under section
9 9501(a)(1) of the Worker Health Coverage Protection Act
10 shall be allowed as a credit against the tax imposed by
11 section 3111(b), or so much of the taxes imposed under
12 section 3221(a) as are attributable to the rate in effect
13 under section 3111(b), for each calendar quarter an
14 amount equal to the premiums not paid by assistance eligi-
15 ble individuals for such coverage by reason of such section
16 9501(a)(1) with respect to such calendar quarter.

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

22 “(1) in the case of any group health plan which
23 is a multiemployer plan (as defined in section 3(37)
24 of the Employee Retirement Income Security Act of
25 1974), the plan,

1 “(2) in the case of any group health plan not
2 described in paragraph (1), and under which some
3 or all of the coverage is not provided by insurance,
4 the employer maintaining the plan, and

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

8 “(c) LIMITATIONS AND REFUNDABILITY.—

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

21 “(2) REFUNDABILITY OF EXCESS CREDIT.—

22 “(A) CREDIT IS REFUNDABLE.—If the
23 amount of the credit under subsection (a) ex-
24 ceeds the limitation of paragraph (1) for any
25 calendar quarter, such excess shall be treated

1 as an overpayment that shall be refunded under
2 sections 6402(a) and 6413(b).

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

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

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

1 provision referred to in subsection (b)(2) of
2 such section.

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

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

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

1 fied health plan expenses under section 7001(d) or
2 7003(d) of the Families First Coronavirus Response Act.

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

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

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

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

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

23 “(5) allowing the credit to third party payors
24 (including professional employer organizations, cer-

1 tified professional employer organizations, or agents
2 under section 3504).”.

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

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

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

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

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

1 (ii) CREDIT OF REIMBURSEMENT.—A
2 person to which clause (i) applies shall be
3 allowed a credit in the manner provided
4 under section 6432 of the Internal Rev-
5 enue Code of 1986 for any payment made
6 to the employee under such clause.

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

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

17 (A) IN GENERAL.—Part I of subchapter B
18 of chapter 68 of the Internal Revenue Code of
19 1986 is amended by adding at the end the fol-
20 lowing new section:

1 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
2 **PLAN OF CESSATION OF ELIGIBILITY FOR**
3 **CONTINUATION COVERAGE PREMIUM ASSIST-**
4 **ANCE.**

5 “(a) IN GENERAL.—Except in the case of a failure
6 described in subsection (b) or (c), any person required to
7 notify a group health plan under section 9501(a)(2)(B)
8 of the Worker Health Coverage Protection Act who fails
9 to make such a notification at such time and in such man-
10 ner as the Secretary of Labor may require shall pay a
11 penalty of \$250 for each such failure.

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

15 “(1) \$250, or

16 “(2) 110 percent of the premium assistance
17 provided under section 9501(a)(1)(A) of the Worker
18 Health Coverage Protection Act after termination of
19 eligibility under such section.

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

24 (B) CLERICAL AMENDMENT.—The table of
25 sections of part I of subchapter B of chapter 68

1 of such Code is amended by adding at the end
2 the following new item:

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

3 (3) COORDINATION WITH HCTC.—

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

7 “(9) CONTINUATION COVERAGE PREMIUM AS-
8 SISTANCE.—In the case of an assistance eligible in-
9 dividual who receives premium assistance for con-
10 tinuation coverage under section 9501(a)(1) of the
11 Worker Health Coverage Protection Act for any
12 month during the taxable year, such individual shall
13 not be treated as an eligible individual, a certified
14 individual, or a qualifying family member for pur-
15 poses of this section or section 7527 with respect to
16 such month.”.

17 (B) EFFECTIVE DATE.—The amendment
18 made by subparagraph (A) shall apply to tax-
19 able years ending after the date of the enact-
20 ment of this Act.

21 (4) EXCLUSION OF CONTINUATION COVERAGE
22 PREMIUM ASSISTANCE FROM GROSS INCOME.—

23 (A) IN GENERAL.—Part III of subchapter
24 B of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section
2 139H the following new section:

3 **“SEC. 139I. CONTINUATION COVERAGE PREMIUM ASSIST-**
4 **ANCE.**

5 “In the case of an assistance eligible individual (as
6 defined in subsection (a)(3) of section 9501 of the Worker
7 Health Coverage Protection Act), gross income does not
8 include any premium assistance provided under subsection
9 (a)(1) of such section.”.

10 (B) CLERICAL AMENDMENT.—The table of
11 sections for part III of subchapter B of chapter
12 1 of such Code is amended by inserting after
13 the item relating to section 139H the following
14 new item:

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

15 (C) EFFECTIVE DATE.—The amendments
16 made by this paragraph shall apply to taxable
17 years ending after the date of the enactment of
18 this Act.

