



## Federal Unemployment Benefits, COBRA Subsidy Extended One Month

McAfee & Taft Employee Benefits Alert - March 8, 2010

On March 2, 2010, President Obama signed the Temporary Extension Act of 2010 (HR 4691) (the "Extension Act") into law. Not only does the Extension Act extend unemployment benefits, it also extends and makes other changes to the COBRA Premium Subsidy Program (the federal tax credit that allows the government to subsidize 65% of the cost of COBRA premiums).

### Extension of Eligibility Period

The COBRA subsidy program was first enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA) and was amended by the Department of Defense appropriations bill in December 2009. Prior to the Extension Act, an employee had to be terminated by February 28, 2010, in order to be eligible for the subsidy. The Extension Act extends the eligibility period to March 31, 2010.

### Additional Qualifying Event

The Extension Act also expands the definition of the qualifying events which trigger eligibility for the premium subsidiary. Previously, only employees whose qualifying event was an involuntary termination of employment could qualify for the subsidy. Under the Extension Act, employees whose hours were reduced prior to being laid off would become eligible for COBRA subsidies upon a subsequent involuntary termination if the termination occurs on or after March 2, 2010, (and on or before March 31, 2010, which is the date the eligibility period for the subsidy ends). In addition, for individuals who did not make a COBRA election based on the reduction of hours of employment, or who made an election and later discontinued it, the involuntary termination must be treated as a new qualifying event and the individuals must be provided a new COBRA election period.

### Recap

The ARRA provides for a 65%, 15-month COBRA premium subsidy for eligible individuals. To qualify for the subsidy, eligible individuals must have been involuntarily terminated from their employment and must pay 35% of their COBRA premiums. The remaining 65% is reimbursed by means of a payroll tax credit to the employer, or in the case of an insured plan subject to state continuation coverage laws, but not COBRA, the insurer.

### Action Items

Health plan sponsors subject to the federal COBRA provisions should immediately update their COBRA forms and notices to reflect the extended subsidy eligibility expiration date of March 31, 2010, as well as the addition of a reduction in hours followed by a termination of employment as an event which will qualify an employee for the subsidy. Plan sponsors will also need to identify participants whose health plan coverage terminated due to a reduction in hours. If such participants were then terminated from employment on or after March 2, 2010, a new COBRA election notice will need to be given to them.

OKLAHOMA CITY  
TENTH FLOOR  
TWO LEADERSHIP SQUARE  
OKLAHOMA CITY, OK 73102-7103  
(405) 235-9621 office • (405) 235-0439 fax

TULSA  
500 ONEOK PLAZA  
100 WEST 5TH STREET  
TULSA, OK 74103  
(918) 587-0000 office • (918) 599-9317 fax