

January 19, 2010

DOL Issues Model Notices Updated for the Extension of the COBRA Premium Subsidy

On January 13, 2010, the U.S. Department of Labor (DOL) issued [updated model notices](#) for the COBRA premium subsidy under the American Recovery and Reinvestment Act of 2009 (ARRA), as updated by the Department of Defense Appropriations Act of 2010 (the Appropriations Act). As discussed in our December 24, 2009 [Legal Alert](#), the Appropriations Act extended eligibility for the COBRA premium subsidy for an additional two months and the maximum period for receiving the subsidy for an additional six months.

The DOL has updated the model general notice, the model alternative notice, and has also issued a model premium assistance extension notice to reflect the changes made by the Appropriations Act.

Updated General Notice

The [general notice](#) is to be provided to all qualified beneficiaries who have not yet received a COBRA election notice who have qualifying events during the period September 1, 2008, through February 28, 2010. The updated model notice includes updated information on the premium subsidy. (See our March 20, 2009 [Legal Alert](#) for a discussion of the original ARRA general notices.) The updated information includes the extension of the subsidy for qualifying events occurring on or before February 28, 2010, and the extension of the maximum period for receiving the subsidy to 15 months.

Note that individuals who experienced a qualifying event in December 2009 but who were not eligible for COBRA coverage until January 2010 likely were not provided proper notice. These individuals should receive the updated general notice no later than February 17, 2010, and have 60 days from the date the updated notice is provided to make a COBRA election.

Updated Alternative Notice

The [updated alternative notice](#) is for use by employers subject to state continuation coverage requirements. The updated notice includes updates similar to those in the updated model general notice.

Premium Assistance Extension Notice

Plan administrators must provide an [additional notice](#) about the COBRA subsidy extension to the following individuals:

- Anyone who was an assistance eligible individual (AEI) after October 31, 2009;
- Anyone who had a qualifying event of termination of employment (voluntary or involuntary) on or after October 31, 2009 and lost health coverage;
- AEIs who were dropped from coverage for failure to pay premiums between the end of the original subsidy period and the date of enactment of the Appropriations Act; and
- AEIs who have continued paying the entire COBRA premium following the end of the original nine-month subsidy period.

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This notice provides information about the extensions, including an explanation regarding the ability of an individual, whose 30-day grace period to make a payment has lapsed, to make a retroactive payment of the reduced premium immediately following what would have been the last period subject to the premium reduction. This notice must be provided no later than February 17, 2010.

The DOL has also added to its web site an updated fact sheet, FAQs for employees, and posters and flyers updated for the COBRA subsidy extensions, which can be found [here](#).



If you have any questions about this development, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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