

COBRA Premium Subsidy Provisions

December 2009 - April 2010

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April 2010

Third COBRA Extension Passed

Late last night, Congress passed the third COBRA extension. It is heading to the President's desk for signature this morning. After a last-minute Senate amendment, accepted by the House, eligibility for the 15-month, 65% subsidy was extended to individuals involuntarily terminated through May 31. Like the prior extensions, this third extension applies to both federal COBRA and state mini-COBRA laws, and is retroactive, so that any individuals terminated between March 31 and May 31 are covered. Employers should expect another revised notice from the Department of Labor to be released shortly, which they will need to send to workers involuntarily terminated after March 31.

Congress Expected to Extend COBRA Subsidy Again

The Senate is expected to take up another extension of the COBRA subsidy – and to pass it – late this afternoon. The measure, if passed, will extend eligibility for the 15-month, 65% subsidy to individuals involuntarily terminated through May 5. Individuals terminated between March 31 and the date the law is enacted will be protected.

March 2010

COBRA Extension; 31 Days

President Obama signed into law a 31-day extension, which makes individuals involuntarily terminated between March 1 and March 31 eligible for the 15-month, 65% subsidy. Without this stopgap measure, eligibility would have ended February 28. Individuals terminated between February 28 and the date the law was enacted (March 2, 2010) are protected.

The bill also introduces a new eligible class: some individuals who lost group coverage due to a reduction in hours, and later were involuntarily terminated, now will be eligible for the COBRA premium subsidy.

An additional extension of the subsidy through the end of this year is still being considered as part of the larger jobs bill. As written, the bill would extend eligibility through December 31, 2010, but would not extend the timeframe for receiving the subsidy past 15 months. The bill also proposed more stringent requirements re: proof that an employee was involuntarily terminated, such as an attestation from the employer in the individual's personnel file. Action is expected on this bill in the very near future.

January 2010

DOL Releases Model Notice on COBRA Extension; Employers Must Send by February 17

In prior alerts, we reported that the COBRA premium subsidy provisions were extended, and employers are obligated to notify their employees of eligibility to continue COBRA by February 17, 2010. The DOL has just published the model notice to be used for this purpose. [Click here](#) to find a copy of the COBRA premium assistance extension notice. The notice must be sent to all eligible individuals by February 17, 2010. For help in determining who is entitled to the notice, you can review the DOL. [click here](#).

January 2010

DOL Releases Guidance on COBRA Subsidy Extension; Model Notice Expected Shortly

In prior alerts, we reported that the COBRA premium subsidy provisions were extended, and employers are obligated to notify their employees of eligibility to continue COBRA

by February 17, 2010. This applies to many individuals on federal or state COBRA, as well as to individuals that lose coverage between January 1 and February 28, 2010, and even to some individuals that stopped paying for COBRA when the premium subsidy ended.

While no model notice for the new extension has been released yet, it is expected within a week. The DOL has released guidance in FAQ form, ([click here](#)), to help employers answer any questions and deal with any issues arising now.

December 23, 2009

President signs Act to extend COBRA subsidy provisions.

As expected, President Obama signed the 2010 Defense Appropriations Act, which extended the COBRA subsidy provisions enacted earlier this year. Now many individuals on federal or state COBRA can continue to receive the subsidy for an additional six months, and individuals who lose their jobs between January 1 and February 28, 2010 may be eligible for the 15-month subsidy. In addition, individuals that stopped paying for COBRA when the premium subsidy ended (because they couldn't afford the premium, or otherwise), can get back onto COBRA with a retroactive premium payment.

Within 60 days of the effective date of the Act, employers need to send out a notice to individuals who were receiving subsidized COBRA on October 31, 2009, as well as to any individual who involuntarily terminated employment on or after that date. No model notice for the new extension has been released yet, but employers should check <http://www.dol.gov/ebsa/cobra.html> within the next few weeks, when one should be posted.

December 20, 2009

Congress' Holiday Gift to the Unemployed

On Sunday, the Senate approved the House version of the Defense Appropriations bill, which includes provisions extending both unemployment benefits and the COBRA subsidy enacted earlier this year.

The COBRA provisions extend the subsidy for six months (from 9 to 15 months). It also extended the eligibility period - which was scheduled to expire December 31 - through the end of February. The COBRA provisions also provide a lookback grace period, so that certain individuals that lost coverage in November and December will be able to retroactively reinstate their COBRA, with the subsidy.

While other COBRA subsidy provisions have been in the news - such as one that would

increase the subsidy from 65% to 75%, and one that will increase COBRA coverage from 18 to 24 months - those bills have not yet been acted upon by both houses of Congress.

President Obama has signaled his support for the COBRA subsidy extension, and it is expected that he will sign the Defense bill. If this bill is signed, employers will have two months to notify former employees (including some whose COBRA subsidy has ended) to inform them of the new COBRA provisions and how those provisions may affect them.