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Alert

Employee Benefits

COBRA Subsidy Extension

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On December 21, 2009, President Barack Obama signed the Department of Defense Appropriations Act for Fiscal Year 2010 ("DOD Act"). The new legislation includes an expansion of the federal COBRA subsidy which was established by the American Recovery and Reinvestment Act of 2009 ("ARRA"). ARRA provided a federal COBRA subsidy equal to 65% of the premium costs of COBRA for individuals involuntarily terminated on or before December 31, 2009 for a period of nine months. The new DOD Act expands the group of individuals eligible for the COBRA subsidy and the length of the subsidy has been extended. In addition, certain individuals are allowed a retroactive application of the subsidy extension and employers are subject to new notice requirements to explain the extension and expansion of the program. Further details of the changes are outlined below.

Length of Subsidy

The DOD Act extends the nine-month ARRA subsidy term by six months, allowing individuals who qualify under the Act to pay only 35 percent of their COBRA health care premiums for a total of **15 months**.

Eligible Class Expanded

The DOD Act extends eligibility to those involuntarily terminated on or before **February 28, 2010**.

Previous Subsidies, Credits and Retroactive Coverage

Individuals whose previous subsidies have expired now have the opportunity to have COBRA coverage at the subsidized rate for an additional six months.

- If an individual continued to pay the full COBRA premium after their nine-month ARRA subsidy ended, the excess premium amounts paid must be refunded or credited to the individual.
- If the individual terminated his or her COBRA coverage after the nine-month subsidy period was exhausted, the individual will have the opportunity to restart COBRA at the subsidized rate retroactive to when he or she stopped paying for COBRA.

To continue coverage, individuals must pay 35% of premium costs by February 17, 2010 or, if later, 30 days after notice of the extension is provided by their plan administrator.

Notice Requirements

In addition to the previous notice requirements under ARRA, employers must now provide a **Premium Assistance Extension Notice** according to the new deadlines under the DOD Act:

- Individuals who are eligible for the ARRA subsidy on or after October 31, 2009 must receive a Premium Assistant Extension Notice by **February 17, 2010**.
- Individuals who were eligible for the ARRA subsidy and whose coverage has ended for failure to pay a premium, as well as those individuals who continue to pay the full COBRA premium after exhaustion of the ARRA COBRA subsidy, must also be provided with the Premium Assistant Extension Notice by **February 17, 2010**.

Please contact Green & Seifter with additional questions, or refer to the Department of Labor's Fact Sheet, which provides further detail about the new law: <http://www.dol.gov/ebsa/newsroom/fscobrapremiumreduction.html>.