

NEWSSTAND

Client Advisory - COBRA Premium Subsidy Extended

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[John H. Reid III](#), [Lori A. Basilico](#), [Benjamin Ferrucci](#)

On December 19, 2009, President Obama signed into law an extension to the COBRA premium subsidy, extending both the period of eligibility for, and the length of, the premium subsidy. The extension is effective immediately and individuals who exhausted their COBRA premium subsidy before the extension was passed will have the opportunity to continue COBRA at the subsidized rates.

As discussed in our client advisory [COBRA Premium Subsidy Included in American Recovery and Reinvestment Act of 2009 \(February 2009\)](#), individuals who lose group health plan coverage because of an involuntary termination of employment on or after September 1, 2008 through December 31, 2009 can elect COBRA and pay only 35% of the COBRA premium. Under ARRA, the COBRA premium subsidy was limited to nine months.

Extended Duration and Eligibility Period

The extension of the COBRA premium subsidy increases the maximum length of the subsidy period to 15 months for individuals who are involuntarily terminated from employment between September 1, 2008 through February 28, 2010, instead of December 31, 2009. The law clarifies that only the termination from employment, and not the loss of coverage, must occur on or before February 28, 2010. This clarification means that an employee who is involuntarily terminated on or before February 28, 2010 but who does not lose group health plan coverage until after February 28, 2010 will be eligible for the premium subsidy.

The subsidy amount remains at 65%

New Notice Requirements

Any individual who is eligible for the COBRA subsidy on or after October 31, 2009, or who experiences a qualifying event based on an involuntary or voluntary termination of employment on or after October 31, 2009 must be notified about the premium subsidy extension. This notice must be provided no later than February 17, 2010 or for qualifying events occurring after December 19, 2009, within the required COBRA notification periods.

Earlier Notice if Subsidy Exhausted

Individuals who dropped COBRA coverage or paid the full COBRA premium when their nine-month subsidy period expired can retroactively elect to continue COBRA coverage at the

subsidized rate for up to an additional six months or receive reimbursement or credit for any excess premium payments. (The law does not extend the maximum period of COBRA continuation coverage.) Affected individuals must be provided with information regarding the premium subsidy extension and the right to make retroactive premium payments at the subsidized rate within 60 days of the expiration of their original subsidy period. To continue their coverage, these individuals must elect to continue COBRA coverage and pay the retroactive COBRA premiums by February 17, 2010 or, if later, 30 days after notice of the extension is provided.

We expect the United States Department of Labor to revise its model COBRA subsidy notices to reflect the extension of the premium subsidy.

This advisory is for guidance only and is not intended to be a substitute for specific legal advice. If you would like further information, please contact the Edwards Angell Palmer & Dodge LLP attorney responsible for your matters or one of the attorneys listed below:

John H. Reid, III, Partner	860.541.7721	jreid@eapdlaw.com
Lori A. Basilico, Partner	401.276.6475	lbasilico@eapdlaw.com
Benjamin Ferrucci, Partner	617.239.0862	bferrucci@eapdlaw.com