

COBRA Subsidy Extended

January 1, 2010

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Last February, President Obama signed into law the Stimulus Package, also known as the American Recovery and Reinvestment Act of 2009 ("ARRA") which included an expansion of COBRA continuation coverage to provide a 65% federal subsidy toward an eligible employee's COBRA premiums for up to nine months. Individuals who were involuntarily terminated from their employment between September 1, 2008 and December 31, 2009, and have less than an annual income of \$125,000.00 (single) or \$250,000.00 (joint filers), for 2009 or 2010, depending on when the subsidy is received, were eligible for this assistance.

As these benefits had already begun to expire for some beneficiaries, Congress acted to extend the coverage, and, on December 21, 2009 President Obama signed the Fiscal Year 2010 Defense Appropriations Act. This Act extends the eligibility period for the COBRA premium reduction for an additional two months (through Feb. 28, 2010) and the maximum period for receiving the subsidy for an additional six months (from nine to 15 months). Therefore, any employees currently receiving the subsidy will be eligible for it for an additional six months and any employees involuntarily terminated through February 28, 2010 will also be eligible. The Act requires that a special notice be provided to all assistance-eligible individuals who are on COBRA on or after November 1 or whose qualifying event is an involuntary termination occurring on or after November 1, 2009 describing the new 15-month premium subsidy.

The Act also includes a period for the retroactive payment of premiums for individuals who were entitled to the subsidy but whose subsidy period expired on November 30 and who failed to pay their premium for December coverage. The retroactive period is 60 days, commencing with the enactment of the provision or, if later, 30 days after provision of notice. The same refund/credit rules under the original bill apply to any assistance-eligible individual whose subsidy expired in November and who has since paid the full COBRA premium.

Given the current state of the economy, it is still possible that these benefits will be further expanded in upcoming months. In the interim, employers and plan administrators should update their COBRA packages to include these additional notices and changes and ensure proper notice has been sent to all eligible employees. Stay tuned for more in 2010.