



Legal Alert: COBRA Model Notices Issued

3/19/2009

Earlier today, the Department of Labor ("DOL") released model COBRA Notices required under the COBRA provisions of the 2009 American Recovery & Reinvestment Act ("ARRA" or "Act"). We previously posted legal alerts about how the Act impacts COBRA coverage, and the means by which employers, where applicable, may claim the tax credit for COBRA subsidies paid under the Act. You can access these legal alerts via the following links: <http://www.fordharrison.com/shownews.aspx?show=4526> and <http://www.fordharrison.com/shownews.aspx?show=4558>.

The DOL model notices contain information that COBRA qualified beneficiaries must receive about their eligibility to receive a subsidy toward payment of their COBRA premiums in different situations. There are four model notices, which can be found at <http://www.dol.gov/ebsa/COBRAmodeNotice.html> :

(1) a General Notice (full version) that can be used for all qualified beneficiaries in connection with any type of qualifying event that occurs at any time from September 1, 2008 through December 31, 2009. This version contains the "regular" COBRA notice as well as the additional notifications required by ARRA;

(2) a General Notice (abbreviated version) that can be provided to former employees who have experienced a qualifying event on or after September 1, 2008, who elected COBRA coverage, and who still maintain that COBRA coverage; this model can also be used in conjunction with a "regular" COBRA notice to update it for ARRA;

(3) a Notice in Connection with Extended Election Periods, which must be provided to any "assistance eligible individual" whose qualifying event occurred at any time from September 1, 2008, through February 16, 2009, and who either did not elect COBRA continuation coverage, or elected COBRA continuation but subsequently discontinued it; this is the Notice that must be provided by April 18, 2009; and

(4) an Alternative Notice that can be used by insurance companies for individuals who are, or become, eligible for continuation coverage under a State law (often referred to as "mini-COBRA") due to a qualifying event that occurs between September 1, 2008 and December 31, 2009.

The bottom line:

Employers and COBRA Administrators will have to tailor these COBRA Model

Notices to comply with the administrative procedures and other requirements of their particular group health plans. In addition, in the case of the Alternative Notice, insurers will have to be sure that their Notices conform to the applicable State law.

Should you have any questions, please do not hesitate to contact the author of this Alert, Lindsay O'Brien, lobrien@fordharrison.com, 904-357-2005 or any member of Ford & Harrison's Employee Benefits Practice Group