



compliance alert

COBRA Subsidy

December 2, 2009

The federal COBRA Subsidy enacted under the American Recovery and Reinvestment Act (ARRA) is expiring. Both houses of Congress have proposals pending that would extend some form of the COBRA Subsidy, but as of today passage is uncertain. The Department of Labor (DOL) is receiving many calls and inquiries from concerned and confused COBRA beneficiaries and group plan sponsors. Early today, DOL released two “FAQs” to clarify current law. See below for text.

CAUTION: Does your organization provide health coverage through the end of the month in which employment terminates? If so, please pay particular attention to DOL Q1. Under current law, the COBRA Subsidy cannot apply to any beneficiary whose COBRA start date is after December 31, 2009. For instance, if employee is laid off in December and employer continues active coverage through the end of this month, COBRA will not start until January 1, 2010 and the beneficiary will not be eligible for the premium subsidy.

Department of Labor FAQs released 12/2/2009:

Q1: *If an employee is involuntarily terminated no later than December 31, 2009, but the qualified beneficiary is not eligible for COBRA until on or after January 1, 2010, is the qualified beneficiary eligible for ARRA premium assistance?*

No. Under ARRA, an assistance eligible individual is a qualified beneficiary as the result of an involuntary termination that occurred during the period from September 1, 2008, through December 31, 2009, is eligible for COBRA continuation coverage at any time during that period, and elects the COBRA continuation coverage. An individual who does not become eligible for COBRA until after December 31, 2009 does not meet the qualifications to be an Assistance Eligible Individual and would therefore be ineligible for the ARRA premium assistance. Please note that this is the correct information based on the current law; however, there is pending legislation that could extend the ARRA premium assistance.

Q2: *My plan has told me that ARRA expires or stops on December 31, 2009. If I am an assistance eligible individual who was involuntarily terminated no later than December 31, 2009 and became eligible for COBRA no later than December 31, 2009, can I still receive the full 9 months of ARRA premium assistance?*

Yes. Assistance eligible individuals are entitled to receive the full 9 months of premium assistance as long as they remain eligible. For example, if an assistance eligible individual started COBRA on November 1, 2009, they would be entitled to 9 months of ARRA premium assistance from November 1, 2009 through July 31, 2010 as long as they remained eligible. Please note that this is the correct information based on the current law; however, there is pending legislation that could extend the ARRA premium assistance.

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