



# compliance alert

## More about COBRA Subsidy Extension

December 29, 2009

As we recently reported, the “COBRA Subsidy” enacted last February under the American Recovery and Reinvestment Act (ARRA) has been extended. Here are updates regarding the changes enacted this month as part of the 2010 Department of Defense Appropriations Act (DOD Act):

**Action by Department of Labor.** DOL posted a “Fact Sheet” summarizing the key provisions of the COBRA Subsidy and the new extension. DOL has indicated it will provide model language for the new notice requirements, but has not said when text will be released. Employers must comply with deadlines regardless of whether DOL provides model text.

**New Notice Requirements Impact Employers:** Employers (plan administrators) are required to provide notices explaining the DOD Act’s changes:

- Notice to persons (a) who are or were assistance-eligible individuals (AEIs) at any time on or after 10/31/2009 or (b) whose COBRA event is/was termination of employment on or after 10/31/2009. Notice is due no later than February 17, 2010 (or usual COBRA election notice timing, if later).
- Notice to all beneficiaries whose COBRA event is December 19, 2009 or later. Notice is due according to usual COBRA election notice timing.
- Notice to all assistance-eligible individuals (AEIs) whose original ARRA nine-month COBRA Subsidy expired. Notice is due within 60 days of expiration of the original nine-month Subsidy.

***On the Horizon: More COBRA Subsidy Changes?***

The US House has passed legislation (H.R. 2847) to extend the COBRA Subsidy through June 30, 2010. The Senate is expected to consider similar legislation when it returns in January. Although not certain, it appears likely that we will see further changes or extensions to the COBRA Subsidy.

***Extension of COBRA Subsidy***

**DURATION:** The maximum COBRA Subsidy period is extended to 15 months (from original start date).

**ELIGIBILITY:** Eligibility is based on date of involuntary termination of employment through February 28, 2010 – even if COBRA coverage begins after this date. (**Note this correction from prior Alert.**)

**TRANSITION RELIEF:** For assistance-eligible individuals whose original nine-month subsidy expired before 12/19/09:

If AEI paid full December premium, employer must refund or credit the amount of overpaid premium.

If the AEI did not pay December premium, employer must provide grace period until February 17, 2010 (or for 30 days from the date of the employer’s notice, if longer).

**NOTICES:** See the “New Notice Requirements” in this Alert.

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