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compliance alert

Stopgap Extension of COBRA Subsidy

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The “COBRA Subsidy”, enacted last February under the American Recovery and Reinvestment Act (ARRA), has been extended – again. Called the “Temporary Extension Act of 2010”, H.R. 4691 was signed into law late last night. This stopgap legislation extends new eligibility for the COBRA Subsidy through March 31, 2010, while Congress is considering proposals for a longer extension.

Key Features of the Temporary Extension Act

Under prior law, *eligibility* for the COBRA Subsidy applied to workers who lost group health coverage due to involuntary termination of employment occurring by February 28, 2010. H.R. 4691 now extends that eligibility provision through March 31, 2010. This feature is retroactive to include those whose employment ended earlier this week.

H.R. 4691 also expands eligibility for the COBRA Subsidy with respect to workers who lose coverage due to a reduction in their work hours if they subsequently experience involuntary termination of employment. In this case, the employment termination will be considered a qualifying event with respect to the COBRA Subsidy provided that employment ends after enactment of H.R. 4691. The maximum duration of COBRA continuation will be counted from the original loss of coverage (due to reduction in hours), however the beneficiary will not be required to elect COBRA or pay premiums for the period of time between the original qualifying event and eligibility for the COBRA Subsidy due to enactment of H.R. 4691.

Department of Labor Guidance

Plan administrators (employers) will need to modify their COBRA notices according to H.R. 4691 and provide notice to affected beneficiaries within the next 60 days. As of this writing, the Department of Labor has not issued guidance on H.R. 4691. DOL typically provides model notices and guidance to employers. However, H.R. 4691 is a stopgap measure and additional legislation for more COBRA Subsidy changes may follow shortly.

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