



COBRA

Federal Update

Update of Federal COBRA

FEDERAL COBRA PREMIUM SUBSIDY

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended, provides a 65 percent COBRA premium subsidy for employees and their dependents who are involuntarily terminated from employment between September 1, 2008 and May 31, 2010.

Eligibility/Premium Assistance: An individual who is involuntarily terminated from employment between September 1, 2008 and May 31, 2010, and timely elects COBRA, is an "assistance eligible individual" or "AEI" eligible for the COBRA premium subsidy. Employees who experienced a reduction in hours before their termination may also be eligible for the subsidy. The subsidy lasts for up to 15 months, or until the individual is eligible for other group health plan coverage or Medicare, if earlier.

Extended Election Period: Employees who were involuntarily terminated on or after September 1, 2008 but did not elect COBRA were given a special election period, beginning February 17, 2009 and ending 60 days after notice of the election opportunity was given. Also, if an employee lost coverage due to a reduction in hours of employment, did not make (or discontinued) a COBRA election and was later involuntarily terminated on or after March 2, 2010, the individual may be eligible to elect COBRA coverage and receive the premium subsidy.

Plan Enrollment Option: A plan may permit an individual to enroll in different coverage if it is also offered to active employees, is major medical coverage, and the premium does not exceed the premium of the individual's prior coverage.

Notice Provisions: Plans must notify certain current and former enrollees of the premium subsidy. The Department of Labor has created model notices for this purpose. A **General Notice** including information on the subsidy and election information must be given to all qualified beneficiaries who experience any type of qualifying event from September 1, 2008 through May 31, 2010. Individuals who received notices that were not complete due to later extensions of the law should receive a **Supplemental Information Notice**. Certain individuals may be entitled to a **Notice of New Election Period** or **Extended Election Period**. Insurance issuers providing coverage under state law must provide an **Alternative Notice**.

APPLICATION TO STATES: Continuation coverage under a state program providing comparable coverage (i.e., state "mini-COBRA" laws applicable to employers with fewer than 20 employees) is subject to the COBRA premium subsidy and notice provisions of ARRA. ARRA does not change any requirement of a State continuation coverage program. ARRA only allows Assistance Eligible Individuals who elect continuation coverage under State insurance law to receive a premium reduction for up to 15 months. It also allows Assistance Eligible Individuals to switch to other coverage offered to active employees if permitted by the plan provided that the new coverage is no more expensive than the prior coverage. States were permitted, but not required, to offer an extended election period.

This Chart is provided to you for general informational purposes only. It broadly summarizes federal statutes, but does not include references to other legal resources (e.g., supporting regulations, or formal or informal opinions) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans. (3/09; KMP 4/10)

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