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April 19, 2010

Third COBRA Subsidy Extension Requires Immediate Attention

On April 15, 2010, President Obama signed the Continuing Extension Act of 2010 (the "CEA"), further extending the 65% COBRA premium subsidy established under the American Recovery and Reinvestment Act of 2009 through May 31, 2010.

Extension of Eligibility Period. Prior to the passage of the CEA, the COBRA premium subsidy was only available to:

- Individuals who became eligible for COBRA continuation coverage due to an involuntary termination of employment and loss of group health coverage by March 31, 2010; or
- Individuals:
 - whose qualifying event was a reduction of hours occurring between September 1, 2008 and March 31, 2010,
 - who subsequently experienced an involuntary termination of employment that occurred between March 2, 2010 and March 31, 2010, and
 - who were otherwise eligible for the subsidy.

The CEA extends the eligibility period for both sets of individuals, so that individuals who are involuntarily terminated from employment by May 31, 2010, can qualify for the subsidy.

Notices. Based on previous guidance from the Department of Labor (DOL):

- Plan sponsors will need to provide a general election notice updated for the extension to all qualified beneficiaries (not just covered employees) (i) who experience any type of qualifying event from April 1, 2010 through May 31, 2010, and (ii) who have not yet been provided an election notice.

- For individuals who have already been provided with election notices, plan sponsors will need to send an updated Premium Assistance Extension Notice. This notice will likely need to be provided to:
 - individuals who were eligible for the COBRA subsidy (“assistance eligible individuals”) as of March 31, 2010; and
 - individuals who experienced a termination of employment on or after April 1, 2010, and lost health care coverage (unless they were provided an updated election notice).
- Assistance eligible individuals will likely be given additional time in which to submit their April COBRA premiums.
- We anticipate that the DOL will provide additional guidance and updated notices on its website at www.dol.gov/COBRA.

Action Steps. We recommend that plan sponsors contact their COBRA administrators regarding the extension and provide their administrators with a list of all employees who involuntarily terminated employment and lost health care coverage in the month of April in order to meet any DOL notification deadlines. We further recommend that plan sponsors continue tracking employees who involuntarily terminate employment as Congress continues to consider additional COBRA subsidy extension bills. We will continue to monitor these bills.

Contact Information. For additional information or for questions regarding these new changes, please contact Nicole Bogard (404.888.8830), Amy Heppner (404.888.8825), Kelly Scott (404.888.8838), or Angela Marino (404.888.8822).

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