

March 19, 2009

## **DOL Issues Model Notices and New FAQs Related to COBRA Premium Subsidy**

The American Recovery and Reinvestment Act of 2009 ("ARRA"), enacted on February 17, 2009, provides a federal subsidy for COBRA premiums for certain employees and covered family members who lost or will lose coverage due to involuntary termination of employment from September 1, 2008 through December 31, 2009. ARRA requires that group health plans provide certain notices to plan participants who may be eligible for this COBRA subsidy.

Today, the DOL issued four model notices that group health plans and employers can use to comply with ARRA's notice requirements. These notices include the following:

- **General Notice (full version).** Group health plans that are subject to the federal COBRA provisions must send this General Notice to all qualified beneficiaries who experienced a qualifying event during the period from September 1, 2008 through December 31, 2009, regardless of the type of qualifying event that occurred.
- **General Notice (abbreviated version).** This notice is also for group health plans that are subject to the federal COBRA provisions. This abbreviated version of the General Notice includes the same information as the full version but does not include COBRA coverage election information. This abbreviated version can be sent in lieu of the full version to individuals who experienced a qualifying event on or after September 1, 2008, have already elected COBRA coverage, and still have such coverage.
- **Alternative Notice.** Insurers that provide group health insurance coverage must send the Alternative Notice to persons who became eligible for continuation coverage under a state law. Because continuation coverage requirements vary among states, insurers should modify the Alternative Notice to conform to applicable state law. **Unless a particular state has enacted legislation requiring a special election period opportunity, employers with fewer than 20 employees that are subject to state law continuation coverage do not have to offer an Extended Election Period (as described below) to their employees.**
- **Notice in Connection with Extended Election Periods.** Group health plans that are subject to the federal COBRA provisions must send this Notice in Connection with Extended Election Periods to any assistance eligible individual (or any individual who would be an assistance eligible individual if a COBRA continuation election were in effect) who: (1) had a qualifying event at any time from September 1, 2008 through February 16, 2009 and (2) either did not elect COBRA continuation coverage or who elected it but subsequently discontinued COBRA continuation coverage. This notice must be provided by April 18, 2009.

The notices are available at: <http://www.dol.gov/ebsa/COBRAmodelnotice.html>

In addition, the DOL released updated and new Frequently Asked Questions ("FAQs") related to the COBRA subsidy. These FAQs address topics such as:

- The status of newly born or adopted children as qualified beneficiaries for purposes of the COBRA subsidy;
- Who is eligible for a second election period under the ARRA;
- "Involuntary termination," which, for purposes of the COBRA subsidy, includes employees who are told not to return to work until further notice;
- How plans should handle COBRA premium overpayments from plan participants; and
- The DOL's procedures for handling appeals related to the COBRA subsidy.

The FAQs For Employees About COBRA Continuation Health Coverage are attached with new Q&As highlighted in yellow (the FAQs for Employers are very similar).

Both sets of FAQs are also available at: <http://www.dol.gov/ebsa/COBRA.html>

We will provide updates on further developments. In the meantime, if you have any questions, please contact your regular Groom attorney or any of the Health and Welfare Practice Group attorneys listed below:

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