



February 2010

Employee Benefits



Alert

DOL Issues Guidance on COBRA Subsidy Extension

The American Recovery and Reinvestment Act of 2009 (ARRA), enacted last February, reduced the premiums required for employer-provided group health plan continuation coverage following termination of employment. On December 19, 2009, President Obama signed legislation that extended the period to qualify for the premium reduction until February 28, 2010 and increased the maximum premium reduction period from nine months to 15 months.

The Department of Labor recently issued a Fact Sheet and FAQs that provide guidance on the premium reduction extension. The Fact Sheet may be found here: <http://www.dol.gov/ebsa/newsroom/fscobrapremiumreduction.html>. The FAQs are available here: <http://www.dol.gov/ebsa/faqs/faq-cobra-premiumreductionEE.html#>.

The Fact Sheet and FAQs include the following guidance.

Assistance Eligible Individuals. An individual is eligible for the premium reduction if he or she:

- has a COBRA qualifying event that is the employee's involuntary termination of employment on or after September 1, 2008 and on or before February 28, 2010; and
- timely elects continuation coverage.

Transition Rule If Nine-Month Premium Reduction Expired. An individual whose nine months of premium reduction expired is eligible for the sixth-month extension. If the individual stopped paying premiums after the original subsidy period expired, he or she may

resume COBRA coverage by paying the reduced premium for the missed months. Such payment must be made by the later of (i) February 17, 2010; (ii) the 30th day after receipt of an extension notice from the plan administrator; or (iii) the end of any applicable grace period under the plan. Individuals who continued to pay for continuation coverage after the nine-month subsidy period expired are eligible for a credit toward future premium payments.

New Notice Requirements. Plan administrators must notify certain current and former participants and beneficiaries about the premium reduction. The Department of Labor has updated its model notices and created a new notice to help plan administrators comply with this requirement. The model notices are found here:

<http://www.dol.gov/ebsa/COBRAmode notice.html>

Plan administrators must provide the updated general notice to all assistance eligible individuals who experience a COBRA qualifying event after December 19, 2009.

Individuals who were assistance eligible individuals as of October 31, 2009 and individuals who lost health plan coverage due to an involuntary termination of employment after October 31, 2009 must be provided a notice of the premium reduction extension no later than **February 17, 2010**.

Individuals whose nine-month subsidy period expired, but are still within 15 months of their COBRA qualifying event, must be provided a notice of the premium reduction extension within **60 days** of the date their nine-month subsidy period expired.

Williams Mullen
Employee Benefits
Group

Catherine M. Marriott
Group Chair
804.783.6901
kmariott@williamsmullen.com

Brydon M. DeWitt
804.783.6917
bdewitt@williamsmullen.com

Elinor P. Hindsley
804.783.6469
ehindsley@williamsmullen.com

Steven B. Long
919.981.4085
slong@williamsmullen.com

Nona K. Massengill
804.783.6569
nmassengill@williamsmullen.com

Maria S. Stefanis
757.629.0664
mstefanis@williamsmullen.com

Ingrid A. Watson
757.473.5312
iwatson@williamsmullen.com