

UPDATE – COBRA Subsidy: Extension Through May 31, 2010

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Background

As we reported in our Client Alert of December 24, 2009 ([“UPDATE: Cobra Subsidy: What it Means for Employers Now”](#)), President Obama signed into law the Department of Defense Appropriations Act, 2010 (the “Defense Appropriations Act”), which, among other things, extended and expanded certain provisions of the American Recovery and Reinvestment Act of 2009 (“ARRA”) pertaining to premium assistance for benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”). The Defense Appropriations Act extended the COBRA premium subsidy for assistance-eligible individuals who became eligible for COBRA from the period that began September 1, 2008, and ended on December 31, 2009, to the period that ended on February 28, 2010.

As we also reported in our Client Alert of March 8, 2010 ([“UPDATE – COBRA Subsidy: New Extension Through March 31, 2010”](#)), President Obama signed into law the Temporary Extension Act of 2010 (the “Temporary Extension Act”). The Temporary Extension Act extended the 15-month COBRA premium subsidy for eligible individuals who were involuntarily terminated from employment through March 31, 2010. The Temporary Extension Act also expanded the application of the premium subsidy to individuals who had a reduction of hours of employment (occurring from September 1, 2008, through March 31, 2010), followed by an involuntary termination that occurred on or after March 2, 2010, and before April 1, 2010.

COBRA Subsidy Extension

On April 15, 2010, President Obama signed into law the Continuing Extension Act of 2010 (the “Continuing Extension Act”). The Continuing Extension Act extends the 15-

month COBRA premium subsidy program for eligible individuals who were involuntarily terminated from employment through May 31, 2010. This extension also applies to individuals who had a reduction of hours of employment (occurring from September 1, 2008, through May 31, 2010) followed by an involuntary termination that occurs on or after March 2, 2010, and before June 1, 2010. Under the Continuing Extension Act, group health plans and their administrators will need to provide eligible individuals who were involuntarily terminated on or after April 1, 2010, and prior to April 15, 2010, with revised COBRA notices and election forms. It would appear that these revised COBRA notices and election forms must be provided no later than sixty (60) days from the date of enactment (which appears to be June 14, 2010), and those individuals will have an additional sixty (60) days to make an election.

The Department of Labor Employee Benefits Security Administration has updated the introduction on its COBRA Web page (www.dol.gov/ebsa/COBRA.html) to reflect the Continuing Extension Act and presumably is in the process of updating the fact sheet, frequently asked questions and other materials.

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