

Client Alert

Employee Benefits Group
Employment Practices Group

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COBRA Subsidy Duration and Eligibility Periods Extended

The 2010 appropriations bill for the Defense Department (the “Bill”) includes an extension to the subsidy for COBRA created by the American Recovery and Reinvestment Act (the “Act”). Below are some of the highlights.

First, the Bill lengthens the maximum subsidy period from 9 months to 15 months, for all eligible individuals including those currently receiving subsidized COBRA coverage and extends the period during which a COBRA qualifying event resulting from an involuntary termination of employment can trigger eligibility for the subsidy from December 31, 2009 to February 28, 2010.

Second, eligibility for the subsidy is conditioned solely on the timing of the qualifying event, so that a person whose employment is involuntarily terminated on February 28, 2010 will be eligible for the subsidy even if he or she does not begin COBRA coverage until March, 2010.

Third, the Bill protects individuals who, before the Bill, exhausted their nine months of subsidized COBRA coverage and did not continue coverage by paying full COBRA premiums. Those individuals would be able to pay those premiums retroactively if they do so on the later of February 19, 2010 or 30 days from receipt of a new required notice. For those individuals who exhausted their nine month subsidy but continued to pay the full COBRA premium in order to keep coverage in place, the amendment allows employers to apply the same refund or crediting rules that were in the Act.

Fourth, plan administrators will be required to issue a notice describing the new subsidy rules to all individuals who were or are eligible individuals on or after October 31, 2009, or who are terminated from employment on or after October 31, 2009. In addition, the Bill requires special notice to those eligible individuals who either dropped COBRA or paid the full premium for it when their nine month subsidy ended, explaining that they are now eligible either to reinstate their coverage retroactively at the subsidized rate or to receive a credit or refund if they paid more than would have been required.

Please feel free to contact any of the attorneys listed below or any attorney with whom you work if you would like to discuss this legislation and its potential ramifications.

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