

## COBRA UPDATE – SUBSIDY APPEAL PROCESS NOW AVAILABLE

The Department of Labor (DOL) recently issued guidance on appealing a denial of the COBRA premium reduction, including an application form.

As you will recall, the American Recovery and Reinvestment Act of 2009 (ARRA) provides premium assistance for continuation of health benefits under COBRA (or state law) for certain Assistance Eligible Individuals (AEIs).<sup>1</sup> In order to receive a COBRA premium reduction, an individual must:

- Be eligible for continuation of coverage under COBRA at any time during the period beginning September 1, 2008 and ending December 31, 2009,
- Elect COBRA continuation (either when first offered or under the Special Election opportunity), and
- Have a qualifying event that is the employee's involuntary termination of employment during the period beginning September 1, 2008 and ending December 31, 2009.

The AEI may receive a 65% reduction in their COBRA premiums for a period of no more than 9 months.

Under ARRA, the DOL was tasked with creating an appeals process for individuals who are denied the reduced COBRA premium. Information on this process and the application to request review is now available on the DOL Web site at [www.dol.gov/ebsa/COBRA/main.html](http://www.dol.gov/ebsa/COBRA/main.html).

The process requires applicants (persons requesting a review of a denial of the premium assistance) to complete an application and include copies of any documents that the applicant believes would be helpful to the DOL in making a determination. This application and information may be provided electronically or in paper format, either faxed or mailed to the DOL. The DOL will only review completed applications and has 15 days to make a determination.

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<sup>1</sup> AEIs may include the former employee, the employee's spouse and dependent children.

Informally the DOL indicated that as part of the review process employers will have an opportunity to submit information regarding the employer's denial of the COBRA subsidy to a particular applicant. Guidance on this process is still forthcoming. Employers should keep records supporting any decision to deny the subsidy as this may be useful in working with the DOL on an appeal.

The DOL appeals process is for use by applicants under plans subject to Federal COBRA (generally, group health plans of employers with 20 or more employees). If coverage is provided through a Federal, State or a local government plan or if it is provided through state insurance law ("mini-COBRA" plans), the request for a review should be made to the Department of Health and Human Services. For more information, see [www.cms.hhs.gov/COBRAcontinuationofCov/](http://www.cms.hhs.gov/COBRAcontinuationofCov/).

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