

Compliance Alert

Another COBRA Subsidy Extension

On April 15, 2010, the President signed into law the *Continuing Extension Act of 2010* (the Act) providing for another extension of unemployment benefits, including a two-month extension of the eligibility period for the COBRA subsidy. A copy of the Act is available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4851enr.txt.pdf.

As we have previously reported, the COBRA subsidy was included in the *American Recovery and Reinvestment Act of 2009* (ARRA – as amended by the *Department of Defense Appropriations Act of 2010*, and the *Temporary Extension Act of 2010*). The subsidy is a 65% tax-payer funded reduction in COBRA premiums available to *assistance eligible individuals* (AEIs). The subsidy is available for a period of no more than 15 months and may expire earlier should, among other things, the AEI become eligible for other group health plan coverage or Medicare.

The *Continuing Extension Act* extends the eligibility period for the COBRA subsidy through **May 31, 2010** for certain qualifying events. Under the prior law, the eligibility period expired as of March 31, 2010.

Now, the definition of an AEI includes the employee (or an opposite-sex spouse or dependent child of the employee) who:

- Experiences a qualifying event that is the employee's involuntary termination of employment at any point from September 1, 2008 through **May 31, 2010** and elects COBRA continuation of coverage (or state mini-COBRA coverage); or
- Experiences a qualifying event that is the employee's **reduction in hours from September 1, 2008 through May 31, 2010, followed by the employee's involuntary termination of employment that occurs on or after March 2, 2010 but not later than May 31, 2010.**

The Act provides extended election opportunities for those individuals who were involuntarily terminated after March 31, 2010 and before April 15, 2010. Also, the Department of Labor (DOL) is expected to issue revised model notices and updated fact sheets to reflect the latest extension.

The Subsidy's Future

This is not likely to be the last extension of the COBRA subsidy. The House and Senate have each passed separate legislation that includes extending eligibility for the COBRA subsidy through December 31, 2010. The legislation will need to be reconciled in joint conference and voted on again by the respective chambers before a final bill is presented to the President for signature.

Conclusion

We anticipate that the DOL will release guidance in the coming days and weeks, including revised fact sheets and notices. The DOL maintains a dedicated COBRA website where information on the subsidy is posted (see <http://www.dol.gov/ebsa/cobra.html>).

We will keep you updated as information develops.



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