



# EMPLOYEE BENEFITS CLIENT ALERT

March 6, 2010

## **COBRA SUBSIDY AGAIN EXTENDED**

Earlier this week, the President signed the Temporary Extension Act of 2010 (the “Extension Act”). The Extension Act extends the COBRA premium subsidy originally adopted in early 2009.

### **BACKGROUND**

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (“ARRA”). ARRA allows certain employees who lose their jobs and employer-provided health insurance to receive a 65% subsidy for their COBRA premiums. Originally, the COBRA premium subsidy was available for up to nine months to individuals whose COBRA-qualifying event was the involuntary termination of employment between September 1, 2008 and December 31, 2009.

On December 21, 2009, the President signed the Department of Defense Appropriations Act, 2010 (the “Appropriations Act”). The Appropriations Act extended the COBRA premium subsidy to cover employees losing their jobs and employer-provided health coverage between January 1, 2010 and February 28, 2010. In addition, the Appropriations Act extended the length of the COBRA premium subsidy from 9 to 15 months.

### **ADDITIONAL COBRA SUBSIDY EXTENSION AND ELIGIBILITY EXPANSION**

Under the Extension Act, the COBRA premium subsidy is again extended. The 15-month subsidy now covers employees involuntarily losing their jobs and employer-provided health coverage between February 28, 2010 and March 31, 2010.

Additionally, the Extension Act expands the group of employees eligible for the 65% premium subsidy. Prior to the Extension Act, an employee must have lost group health coverage as a result of an involuntary termination to be eligible for the COBRA subsidy.

The Extension Act now allows an employee whose qualifying event is a reduction of hours on or after September 1, 2008 to receive the premium subsidy if the employee is subsequently involuntarily terminated between March 2, 2010 and March 31, 2010. Such an employee is entitled to another COBRA election opportunity if the employee did not previously elect COBRA or elected COBRA but discontinued coverage. The COBRA coverage period is based on the original qualifying event (i.e., the reduction of hours); however, employees are not

required to elect coverage for the period between the reduction in hours and the involuntary termination of employment. We expect further guidance and model forms from the Department of Labor soon.

Finally, employers are likely not yet done dealing with the COBRA premium subsidy. Legislation is pending in Congress that would (once again) extend the COBRA premium subsidy to those who lose their jobs through December 31, 2010.



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