



EMPLOYEE BENEFITS CLIENT ALERT

December 21, 2009

COBRA SUBSIDY EXTENDED

Earlier today, the President signed the Department of Defense Appropriations Act, 2010 (the “Appropriations Act”). Embedded in the Appropriations Act is a measure extending the COBRA premium subsidy originally adopted earlier this year.

BACKGROUND

On February 17, 2009 the President signed the American Recovery and Reinvestment Act of 2009 (“ARRA”). ARRA allows “assistance eligible individuals” to receive a 65% subsidy for their COBRA premiums. The COBRA premium subsidy is available to individuals whose COBRA-qualifying event is the termination of employment, and whose employment terminates between September 1, 2008, and December 31, 2009. The COBRA premium subsidy continues for a maximum of 9 months, but terminates once an individual becomes eligible for other employer-based coverage or Medicare. The amount of the COBRA premium subsidy phases out for individuals with adjusted gross incomes over a certain amount.

COBRA SUBSIDY EXTENSION

Under the Appropriations Act, the COBRA premium subsidy is extended to cover employees losing their jobs and employer-provided health coverage between January 1, 2010 and February 28, 2010. In addition, the length of the COBRA premium subsidy program is extended from 9 to 15 months. This applies to new COBRA beneficiaries and those who are currently receiving the subsidy. The Appropriations Act gives beneficiaries whose COBRA premium subsidy ran out, and who didn’t pay the full premium, a second chance to opt for coverage. In other words, if their COBRA premium subsidy ran out in November and they didn’t pay the full COBRA premium in December, the Appropriations Act would allow them to pay the 35% premium share in January to receive coverage for December.

The Appropriations Act requires employers to notify current and future COBRA beneficiaries of the new 15-month COBRA premium subsidy. Employers must also provide a notice of the COBRA premium subsidy extension to any individual who (1) was eligible for the COBRA premium subsidy at any time on or after October 31, 2009, (2) experiences a COBRA qualifying event after such date, or (3) lost the subsidy.

The House is also expected to take up another appropriations bill, H.R. 2847, with a provision that would extend the COBRA premium subsidy to those who lose their jobs through June 30, 2010.

KUTAK ROCK LLP

Please contact any member of the Employee Benefits Group or your regular Kutak Rock attorney if you would like any additional information about the new changes to the COBRA subsidy or any other employee benefits matter. For more information on our Employee Benefits and Executive Compensation practice and for recent news and alerts, please visit us at www.kutakrock.com.

[John E. Schembari](#)
[Juliana Reno](#)
[William C. McCartney](#)

[Peter C. Langdon](#)
[Michelle M. Ueding](#)
[Margaret A. Olsen](#)

[Janis J. Winterhof](#)
[Kathryn M. Magli](#)
[Autumn Long](#)

Kutak Rock LLP | The Omaha Building | 1650 Farnam Street | Omaha, NE 68102-2186 | (402) 346-6000

This Employee Benefits Client Alert is a publication of Kutak Rock LLP. This publication is intended to notify our clients and friends of current events and to provide general information about employee benefits issues. The Kutak Rock LLP Employee Benefits Client Alert is not intended, nor should it be used, as legal advice, and it does not create an attorney-client relationship.

To ensure compliance with requirements imposed by the IRS, we inform you that any federal tax advice contained in this communication should not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, and such advice is not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties under the Internal Revenue Code.

©Kutak Rock LLP 2009
All Rights Reserved

This communication may be considered advertising in some jurisdictions.



NATIONAL RESOURCES, LOCAL RESULTS™