

American Recovery and Reinvestment Act (ARRA)

Congress Extends COBRA Subsidy

On December 21, 2009, WASHINGTON—President Obama signed a bill that extends federal COBRA health insurance premium subsidies for the unemployed under the American Recovery and Reinvestment Act of 2009 ("ARRA"). ARRA made several substantial, albeit temporary, changes to the rules governing the continuation of health coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Previously, ARRA provided for a 9-month 65% federal subsidy of the COBRA premiums paid by individuals who became eligible for COBRA due to an involuntary termination of employment between September 1, 2008 and December 31, 2009. As discussed below, the Department of Defense Appropriations Act (the "Act") extends both the eligibility period and the subsidy period for the COBRA premium subsidy as well as provides new notice requirements. However, there was no expansion to include employees who lose coverage due to a reduction in hours.

- ❑ **Eligibility Period Continues to February 28, 2010.** The Act extends the eligibility period for the COBRA premium subsidy to individuals who became eligible for COBRA due to an involuntary termination of employment between September 1, 2008 and February 28, 2010. Previously, the eligibility period ended on December 31, 2009.
- ❑ **15-Month Maximum COBRA Subsidy Period.** The maximum period for which an eligible terminated former employee may receive a premium subsidy is extended from nine months to 15 months.
- ❑ **Extended Subsidy Available to Former Employees Whose Original Subsidy Period Expired.** The Act also allows individuals whose COBRA premium subsidy expired to buy back into the subsidized COBRA coverage during a "transitional" period described in the Act.
- ❑ **New COBRA Notice Requirements.** The changes in eligibility and coverage will require new COBRA subsidy notices (i) describing the 15 month maximum period for the COBRA premium subsidy and (ii) informing individuals who lost coverage due to nonpayment or who overpaid for coverage of the changes providing for continued subsidized coverage
- ❑ **General.** The ARRA rules apply to sponsors of single-employer and multiemployer group health plans. The subsidy is available not only for COBRA coverage, but also for continuation coverage provided under any state program applicable to employers with fewer than 20 employees that provides continuation coverage comparable to COBRA coverage. The subsidy is not available, however, for coverage under a health care flexible spending arrangement.

Keep in mind that this Bill was just signed into law last week and there is very few guidelines from the DOL. There may be some additional required notice as we receive more information on this change from the DOL and other sources. We will keep you informed of any changes as that information becomes available.

For more information on the COBRA subsidy, go to the U.S. Department of Labor website at <http://www.dol.gov/ebsa/cobra.html>