

DOL Issues Model Notices and Forms for New COBRA Subsidy

The American Recovery and Reinvestment Act of 2009 (the "Stimulus Act") provides a government subsidy of 65% of the COBRA premium actually charged to anyone who becomes eligible for COBRA between September 1, 2008 and December 31, 2009 because of an involuntary termination of employment (other than for gross misconduct) during that period. The subsidy is available beginning March 1, 2009. Any otherwise eligible individual who previously rejected or terminated COBRA coverage must be given an opportunity to make a new COBRA election for the remainder of his or her continuation coverage period, and to apply for the subsidy.

The Department of Labor has now published model notices and forms, together with expanded FAQs, to assist employers, plan administrators and qualified beneficiaries in complying with these new - albeit very temporary - rules. The FAQs address much of the basic information reported in our previous e-flash, which can be found at [Stimulus Act Provides New COBRA Subsidy](#), and fill in a number of other details. The DOL reports, for example, that election of the COBRA premium subsidy disqualifies the qualified beneficiary for the Health Coverage Tax Credit. Of perhaps more immediate interest, however, are the four separate packages of model notices and forms.

- [Notice in Connection with Extended Election Periods](#). This notice must be provided by April 18, 2009 to any individual who experienced an involuntary termination of employment between September 1, 2008 and February 16, 2009, but previously rejected or terminated COBRA continuation coverage. Any such individual must be given sixty (60) days to make a new COBRA election and apply for the premium subsidy. The model notice package contains all the necessary information and forms. Department of Labor representatives have suggested that, if it is unclear whether an individual's employment termination was involuntary, the Notice in Connection with Extended Election Periods should be provided.
- [General Notice \(Abbreviated Version\)](#). This notice may be sent (in lieu of the Full Version described below) to qualified beneficiaries who are currently enrolled in COBRA continuation coverage and whose qualifying events occurred on or after September 1, 2008. The principal purpose of the notice is to inform these individuals of the new premium subsidy and, if their qualifying events were involuntary terminations of employment, to allow them to apply for the subsidy.
- [General Notice \(Full Version\)](#). The description and explanation posted on the DOL web site says that this notice must be sent to all qualified beneficiaries, not just covered employees, who experience a qualifying event between September 1, 2008 and December 31, 2009, regardless of the nature of the qualifying event, and who either have not been provided a notice or were provided a notice after February 16, 2009 that did not include the required information about the subsidy. Thus, this version of the notice need not be sent to recipients of the Notice in Connection with Extended Election Periods or the General Notice (Abbreviated Version).
- [Alternative Notice](#). Some state insurance laws require COBRA-like continuation coverage under insured group health plans that are not subject to COBRA (e.g., because the plan sponsor employs fewer than 20 employees). The Stimulus Act requires the premium subsidy under these state programs, as well. This Alternative Notice is essentially a generic document that requires insurance carriers or plan administrators to complete any state-specific information relating to continuation coverage, but provides the necessary information and forms relating to the premium subsidy.

The information and forms included with these model notice packages are complete. Given the tight time frames for the new notice and subsidy requirements, and the assurance that the model notices contain all necessary content, employers and plan administrators should be encouraged in this case simply to accept what the government has

provided. If you have questions or would like additional information about the new COBRA premium subsidy and notice requirements, please feel free to contact Brian Dougherty at (215) 587-5919 or bdougherty@postschell.com.

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