

CLIENT ALERT

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IMPORTANT INFORMATION REGARDING..... EXTENSION OF COBRA PREMIUM SUBSIDY

On December 19, 2009, President Obama signed the Department of Defense Appropriations Act, 2010. Part of this Act includes an extension to the COBRA federal subsidy program that was originally set to end on December 31, 2009.

The Subsidy Program under the American Recovery and Reinvestment Act of 2009 allowed for a federal subsidy of 65% of the COBRA rate for Assistance Eligible Individuals (AEIs). The Act provided assistance for AEIs who were terminated and eligible for COBRA from September 1, 2008 to December 31, 2009. The subsidy was available for up to nine months.

Employers not eligible for COBRA, but who must comply with State Continuation must also comply with these changes.

CHANGES:

- ELIGIBILITY PERIOD – THE ELIGIBILITY PERIOD HAS BEEN EXTENDED THROUGH FEBRUARY 28, 2010. THE ORIGINAL WORDING STATES THAT AN AEI MUST HAVE BEEN TERMINATED **AND** BE ELIGIBLE FOR COBRA DURING THE ELIGIBILITY PERIOD. **NOW**, THE ELIGIBILITY PERIOD IS DETERMINED ONLY BY THE DATE OF THE EMPLOYEE’S TERMINATION. THIS MEANS THAT A PERSON WHO LOSES COVERAGE ON FEBRUARY 28, 2010, BUT IS NOT COBRA ELIGIBLE UNTIL MARCH 1, 2010, WILL BE ELIGIBLE FOR THE SUBSIDY.
- LENGTH OF COBRA SUBSIDY – THE LENGTH OF TIME AN AEI MAY RECEIVE THE SUBSIDY HAS BEEN EXTENDED FROM NINE MONTHS TO 15 MONTHS, SUBJECT TO THE REMAINING MAXIMUM COBRA PERIOD. STATE CONTINUATION DURATIONS VARY WITH THE STATE. IF A STATE CONTINUATION IS 15 MONTHS OR MORE THEN THE SUBSIDY DURATION REMAINS AT 15 MONTHS. IF THE STATE CONTINUATION IS LESS THAN 15 MONTHS, THEN THE SUBSIDY DURATION WILL BE THE MAXIMUM DURATION ALLOWED UNDER THE STATE CONTINUATION PLAN.
- EMPLOYER RESPONSIBILITY –
 - FOR EMPLOYEES WHO TERMINATE ON OR AFTER OCTOBER 31, 2009 – PROVIDE A SPECIAL NOTICE DESCRIBING THE NEW SUBSIDY EXTENSION. NOTE: THIS NOTICE MUST GO TO ALL TERMINATED EMPLOYEES. **(INVOLUNTARY AND VOLUNTARY)**
 - UPDATE CURRENT NOTICE – FOR NEW TERMINATIONS

- **PROVIDE SPECIAL REINSTATEMENT PERIOD** - ANY AEI WHOSE NINE MONTH SUBSIDY LAPSED PRIOR TO DECEMBER 19, 2009, MUST BE GIVEN A SPECIAL ELECTION PERIOD IN WHICH TO RE-ELECT COBRA AND PAY THE SUBSIDIZED BACK PREMIUM. ELECTION AND PAYMENT OF PREMIUM MUST BE MADE WITHIN 60 DAYS FROM DECEMBER 19, 2009 OR 30 DAYS FROM THE DAY AN UPDATED NOTICE IS PROVIDED, WHICHEVER IS LATER. THIS REINSTATEMENT PERIOD EXTENDS TO EMPLOYEES WHO HAVE LET THEIR COBRA COVERAGE LAPSE.
- **PROVIDE CREDIT FOR ANY PREMIUM OVERPAYMENT MADE BY AN AEI WHOSE INITIAL SUBSIDY ENDED AND WHO SUBSEQUENTLY PAID THE FULL COST OF COBRA** – CREDIT MAY BE APPLIED TO FUTURE COBRA PAYMENTS OR REFUNDS GIVEN.

KEEP AN EYE OUT FOR FUTURE EXTENSIONS TO THE COBRA SUBSIDY WHICH MAY OCCUR FROM THE JOBS FOR MAIN STREET ACT (H.R. 2847)

**WE HOPE YOU HAVE FOUND THIS CLIENT ALERT INFORMATIVE.
PLEASE FEEL FREE TO CALL US WITH QUESTIONS.**

Helpful Links

Full text of the Department of Defense Appropriations Act, 2010. (Subsidy Information starts on page 64)
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3326enr.txt.pdf

Department of Labor

<http://www.dol.gov/ebsa/cobra.html>

IRS

<http://www.irs.gov/newsroom/article/0,,id=204505,00.html>

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This e-mail is informational only and not meant as legal advice nor is it meant to advise you of your entire obligations under the Department of Defense Appropriations Act, 2010.

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