



DOL Publishes New Model Notices for Extension of COBRA Subsidy

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By: Sheri Eubanks

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Temporary Extension Act of 2010 (TEA), requires that health plans notify certain current and former participants and beneficiaries about the COBRA premium reduction. The Department of Labor has issued two revised model notices and three new model notices to help plans and individuals comply with these requirements.

The new model notices reflect the two major changes created by the TEA, which were discussed in our March 15, 2010 E*Alert. The TEA provided for a one-month extension of the COBRA premium reduction period, which now includes involuntary terminations through March 31, 2010. The TEA also expanded eligibility to individuals who experience a qualifying event that is a reduction of hours occurring at any time from September 1, 2008 through March 31, 2010, which is followed by an involuntary termination of employment on or after March 2, 2010 through March 31, 2010. The new models are:

- 1. Model Updated General Notice:** Plans subject to the federal COBRA provisions must provide the updated General Notice to all qualified participants and beneficiaries who experienced a qualifying event at any time between September 1, 2008 and March 31, 2010, regardless of the type of qualifying event, and who have not yet been provided an election notice. It is important to remember that a qualifying event now includes a reduction of hours during the period beginning with September 1, 2008 and ending with March 31, 2010 that is followed by a termination of employment on or after March 2, 2010 and by March 31, 2010. Also, it is important to note that individuals who experienced a qualifying event (that was a termination of employment) on or after March 1, 2010 may not have been provided proper notice.

Therefore, the Department suggests that these individuals should get the updated General Notice in addition to the full 60 days from the date the updated notice is provided to make a COBRA election.

2. Model Notice of New Election Period: Plans subject to continuation coverage provisions under federal or state law must provide, within 60 days of the date of the termination of employment, a Notice of New Election Period to all individuals who:

- Experienced a qualifying event that was a reduction in hours at any time from September 1, 2008 to March 31, 2010;
- Subsequently experience a termination of employment at any point from March 2, 2010 through March 31, 2010; and
- Either did not elect continuation coverage when it was first offered or elected but subsequently discontinued the coverage.

3. Model Supplemental Information Notice: Plans that are subject to continuation coverage provisions under federal or state law should provide the Supplemental Information Notice to all individuals who elected and maintained continuation coverage based on the following qualifying events:

- Terminations of employment that occurred at some time on or after March 1, 2010 for which notice of the availability of the premium reduction under ARRA was not given; or
- Reductions of hours that occurred during the period from September 1, 2008 through March 31, 2010 which were followed by a termination of the employee's employment that occurred on or after March 2, 2010 and by March 31, 2010.

4. Model Notice of Extended Election Period: Plans that are subject to continuation coverage provisions under federal or state law must provide, before the end of the required time period for providing a COBRA election notice, the Notice of Extended Election Period to all individuals who:

- Experienced a qualifying event that was a termination of employment at some time on or after March 1, 2010;
- Were provided notice that did not inform them of their rights under ARRA, as amended by TEA; and
- Either chose not to elect COBRA continuation coverage at that time or elected COBRA but subsequently discontinued that coverage.

5. **Model Updated Alternative Notice:** Insurance issuers that offer group health insurance coverage that is subject to comparable continuation coverage requirements imposed by state law must provide the Alternative Notice to all qualified beneficiaries who have experienced a qualifying event through March 31, 2010. Because continuation coverage requirements vary among states, it should be further modified to reflect the requirements of the applicable state law.

The full model notices can be found at:

www.dol.gov/ebsa/COBRAModelNotice.html

They are designated "DOL>EBSA>COBRA Model Notices."

The Department of Labor has further updated its website with additional information about the extension. To view this information, go to:

<http://www.dol.gov/ebsa/faqs/faq-cobra-premiumreductionEE.html>

If you have any questions about this material, please contact Sheri Eubanks here at Lindner & Marsack, S.C. whose email address is seubanks@lindner-marsack.com.

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