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## COBRA PREMIUM SUBSIDY EXTENDED

An extension of the COBRA premium subsidy initially enacted under the American Recovery and Reinvestment Act of 2009 (ARRA) was signed into law by President Obama on December 19, 2009. Under ARRA, "assistance eligible individuals" or AEI's (individuals experiencing an involuntary termination and a loss of health coverage between September 1, 2008 and December 31, 2009) were eligible for a 65 percent subsidy of COBRA premiums for up to 9 months. The Department of Defense Appropriations Act of 2010 (DOD Act) amends ARRA in several key ways.

**Eligibility Period Extended.** The DOD Act extends the COBRA premium subsidy eligibility period from December 31, 2009 to February 28, 2010. In addition, prior to amendment, to qualify as an AEI, ARRA required that both the individual's termination from employment **and** the loss of health coverage occur during the relevant eligibility period. Under the DOD Act, only the qualifying termination from employment, not the loss of coverage, must occur on or before February 28, 2010. Thus, an individual who is terminated on February 10, 2010, but who will not lose health coverage until March 1, 2010, will qualify for the subsidy.

**Subsidy Period Lengthened.** Prior to amendment, individuals could obtain a subsidy for up to 9 months. That period has been lengthened to 15 months.

**Subsidy Extension Retroactive.** The DOD Act provides that the subsidy extension is retroactive. Individuals who previously qualified for the subsidy will now be eligible for up to 15 months. If an individual continued on COBRA after the original subsidy period by paying the full premium, the excess premium must be refunded or credited back to the individual. Individuals who terminated COBRA at the end of the original subsidy period will have an opportunity to restart COBRA at the subsidized rate retroactive to when the individual stopped paying for coverage.

**New Notification Obligations.** The DOD Act also imposes several new notification obligations on employers, including:

- Any individual who was eligible for the COBRA premium subsidy on or after October 31, 2009, or who is voluntarily or involuntarily terminated on or after that date, must be notified of the subsidy extension **no later than February 17, 2010**. Notice to individuals who become eligible for the COBRA premium subsidy after December 19, 2009 should be given pursuant to the general timing notification rules of COBRA.
- Any individual who was eligible for the COBRA premium subsidy, but who was either dropped from coverage for failure to pay a COBRA premium or who paid the full premium after the subsidy was exhausted, must be provided with notice of the subsidy extension and the right to re-start COBRA by **February 17, 2010**.

The DOD Act did not change the remaining provisions of ARRA, including the coverage to which the subsidy applies, the events that terminate eligibility for the subsidy, income limits for the subsidy, or the process by which the subsidy is obtained.

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