

Employee Benefits & Executive Compensation Update

www.BlankRome.com

December 2009 No. 11

COBRA Subsidy Extended

Congress has passed and President Obama has signed the Fiscal Year 2010 Defense Appropriations Bill, which includes provisions to extend the COBRA subsidy initially passed as part of the American Recovery and Reinvestment Act of 2009 ("ARRA"). This law extends the COBRA subsidy from 9 months to 15 months and extends eligibility to those individuals who are involuntarily terminated on or before February 28, 2010.

Pursuant to ARRA, the federal government will subsidize 65% of the COBRA premium for involuntarily terminated employees and their families who elect COBRA coverage under an employer-sponsored group healthcare plan ("Assistance Eligible Individuals"). The subsidy is generally delivered by employers, who are reimbursed by the government through a payroll tax credit or directly. Initially, this subsidy was to be provided for the first 9 months of COBRA for those individuals involuntarily terminated on or before December 31, 2009. The new law revises ARRA to extend the COBRA subsidy to 15 months for those individuals involuntarily terminated on or before February 28, 2010. The remaining COBRA subsidy provisions as included in ARRA remain unchanged.

As a result of the COBRA subsidy extension, plan administrators will be required to meet two new notification requirements. First, notice must be provided within 60 days from the date of the enactment of the extension (*i.e.*, December 21, 2009) which describes the new subsidy provisions. This notice will need to be provided to all individuals who were Assistance Eligible Individuals on or after

October 31, 2009. This notice will also be used for those individuals who experience qualifying events on or before February 28, 2010. Second, a notice must be provided to those individual who lost eligibility for the subsidy following the end of the 9 month period, including those individuals who stopped paying COBRA premiums when the subsidy expired. This notice will include information regarding the subsidy extension and the individual's ability to make retroactive premium payments in order to retain COBRA coverage. This notice must also be provided within 60 days of enactment. The DOL will likely issue revised notices to address the changes to the COBRA subsidy.

Employers should act now to accommodate their COBRA practices to comply with the subsidy extension. Employers should also be mindful of how the COBRA subsidy extension impacts current severance arrangements and any severance arrangement entered into through February 28, 2010. For additional information on the COBRA subsidy provisions under ARRA please see our previous alerts: [*Recovery Act Includes COBRA Subsidy*](#); [*IRS Publishes Revised Payroll Tax Forms to Reflect COBRA Subsidy*](#); [*IRS and DOL Issue Guidance on COBRA Subsidy*](#); [*DOL Issues COBRA Subsidy Model Notices*](#); and [*IRS Guidance Further Clarifies COBRA Subsidy*](#).

If you have any questions about how to implement the COBRA subsidy with respect to your group health plan, contact a member of Blank Rome's Employee Benefits and Executive Compensation Group.

— Kari Knight Stevens

Employee Benefits and Executive Compensation Practice Group

Arthur Bachman	215.569.5715	Wilhelm L. Gruszecki	215.569.5477	Jeffrey E. Myers	215.569.5592
Patricia Barrett	215.569.5432	Michael J. Hanlon	215.569.5652	Virginia Escobar Neiswender	215.569.5439
Michael J. Eagles	215.569.5741	Cory G. Jacobs	215.569.5481	Rachel Pasternak	212.885.5378
Lauren Fox	215.569.5506	Barry L. Klein*	215.569.5403	Kari Knight Stevens	215.569.5705
Paul A. Friedman	212.885.5411	Anthony A. Mingione	212.885.5246		

* Editor