

BENEFITS ALERT

Rose & Kiernan, Inc.

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As reported by Ceridian and the US Department of Labor... COBRA Subsidy Update... Premium Subsidy Ending for Some Participants

Extension Possible in Coming Weeks to Further Aid Displaced Workers

In recent days there has been much confusion concerning the **COBRA Premium Subsidy**.

For many COBRA participants, the subsidy became available in March '09, the first full month after the stimulus bill was signed. Now, with the initial 9 months of subsidy behind us, there is the potential that many of your COBRA participants will lose their subsidy this month. Their invoices should typically revert to the full premium amount when they are no longer subsidy-eligible. Other COBRA participants will lose the subsidy sometime in 2010 as their nine months of eligibility runs out.

While a COBRA subsidy extension remains uncertain, the belief is that Congress will likely extend the law that subsidizes COBRA health care premiums for assistance-eligible employees. Democrats have introduced legislation outside of the health care reform bills to extend the COBRA subsidies.

There are currently three proposals in Congress to extend the subsidy: In the House: HR 3930 *Extended COBRA Continuation Protection Act of 2009* and HR 3966 (No Official Title). In the Senate: S2730 *COBRA Subsidy Extension and Enhancement Act of 2009*.

- House Bill HR 3930 would provide eligible COBRA participants with an additional six months of premium subsidies to a maximum of 15 months.
- House Bill HR 3966 extends the subsidy through 6/30/2010
- Senate Bill S 2730 extends the subsidy an additional 6 months to a maximum of 15 months, and also increases the subsidy amount to 75 percent.

All three bills, as of 12/3/2009, have been referred to Committee and no action has been taken.

At the time ARRA was passed last February, the Joint Committee on Taxation estimated that the subsidy would cost the federal government about \$25 billion and benefit about 7 million jobless individuals and their families. No new government figures have been released.

In a recent COBRA white paper, Ceridian analyzed data from approximately 50,000 clients representing 7.3 million employees and found COBRA enrollments increased about 40 percent from pre-ARRA rates. The report also stated that the complexity and added restrictions of the subsidy law may have limited the program's impact.

If the subsidy is extended, the amount of changes to the current COBRA administrative system would be significantly less compared to earlier this year when the subsidy legislation was enacted. Some changes, however, would be necessary if the extension allows those individuals whose ARRA subsidy ended after nine months in November 2009 or later to get back on subsidized COBRA coverage.



Q1: If an employee is involuntarily terminated no later than December 31, 2009, but the qualified beneficiary is not eligible for COBRA until on or after January 1, 2010, is the qualified beneficiary eligible for ARRA premium assistance?

No. Under ARRA, an assistance eligible individual is a qualified beneficiary as the result of an involuntary termination that occurred during the period from September 1, 2008, through December 31, 2009, is eligible for COBRA continuation coverage at any time during that period, and elects the COBRA continuation coverage. An individual whose date of termination is effective December 31, 2009 becomes COBRA eligible on January 1, 2010 does not meet the qualifications to be an Assistance Eligible Individual and would therefore be ineligible for the ARRA premium assistance.

Q2: My plan has told me that ARRA expires or stops on December 31, 2009. If I am an assistance eligible individual who was involuntarily terminated no later than December 31, 2009 and became eligible for COBRA no later than December 31, 2009, can I still receive the full 9 months of ARRA premium assistance?

Yes. Assistance eligible individuals are entitled to receive the full 9 months of premium assistance as long as they remain eligible. For example, if an assistance eligible individual started COBRA on November 1, 2009, they would be entitled to 9 months of ARRA premium assistance from November 1, 2009 through July 31, 2010 as long as they remained eligible. Please note that this is the correct information based on the current law; however, there is pending legislation that could extend the ARRA premium assistance as detailed above.

As always, we will continue to monitor this and all relevant legislative activity to keep you informed.

This Summary is provided to you for general informational purposes only and does not include references to other legal resources (e.g., supporting regulations, or formal or informal opinions) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.

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