

March 2009

EMPLOYER ALERT

U.S. DEPARTMENT OF LABOR ISSUES MODEL COBRA NOTICES IN CONNECTION WITH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

On March 19, 2009, the United States Department of Labor ("DOL") issued model COBRA notices and applications to be used by employers and administrators of employer-sponsored group health plans in compliance with the American Recovery and Reinvestment Act of 2009 ("ARRA").

ARRA amends COBRA by providing eligible individuals a 65% subsidy toward the cost of premiums for continuation coverage in a group health plan for up to 9 months following an involuntary termination of employment. Accordingly, ARRA-eligible individuals will be required to pay only 35% of the full premium for up to 9 months of COBRA benefits. For general information, please refer to our March 2009 Employer Alert titled "Employer Requirements Under The American Recovery and Reinvestment Act of 2009 -- What Employers Must Know About New COBRA Rights and Premium Subsidies."

The four model notices described below are published on the DOL's website: <http://www.dol.gov/ebsa/COBRAmodelnotice.html>. The model notices are guidelines, and must be modified, as needed, for applicability to a particular plan. Employers are not required to use the model notices if they wish to create their own forms.

Model Notices

1. Full General Notice: Plans subject to COBRA must send this notice to all qualified beneficiaries -- not only covered employees -- who experience(d) any COBRA-qualifying event from September 1, 2008 through December 31, 2009. This notice can be accessed at the following link: <http://www.dol.gov/ebsa/COBRAGeneralnoticefullversion.doc>;
2. Abbreviated General Notice: Plans subject to COBRA may send this abbreviated notice in lieu of the full notice above to all qualified beneficiaries who experienced a COBRA-qualifying event on or after September 1, 2008 and who already elected and still are covered by COBRA. This notice can be accessed at the following link: <http://www.dol.gov/ebsa/COBRAGeneralnoticeabbreviatedversion.doc>;
3. Extended Election Notice: Plans subject to COBRA must send this notice by **April 18, 2009** to any individual who had a qualifying event from September 1, 2008 through February 16, 2009, but are not presently covered by COBRA because they did not elect COBRA or because they elected and subsequently discontinued COBRA. This notice can be accessed at the following link: <http://www.dol.gov/ebsa/COBRAextendedelectionperiodnotice.doc>;
4. Alternative State Law Notice: Plans subject to continuation coverage obligations under an applicable state law (but not COBRA) must send this notice to any individual who became eligible for continuation coverage under such state law from September 1, 2008 through December 31, 2009. This notice can be accessed at the following link: <http://www.dol.gov/ebsa/COBRAalternativenotice.doc>.

We are available to provide counsel and guidance concerning these issues, as well as other management concerns not discussed in this Employer Alert relating to **The American Recovery and Reinvestment Act of 2009**. For additional information on the issues discussed here and other issues arising under federal and state labor and employment law, please contact us.

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