

## Employee Benefits E-news

December 23, 2009

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### COBRA Premium Subsidy Provisions Extended

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On December 21, 2009, the President signed the Department of Defense Appropriations Act, 2010, (the "Act") extending the COBRA subsidy provisions of the American Recovery and Reinvestment Act of 2009.

The Act provides for two extensions:

- The 65% federal government subsidy of the COBRA premium for "assistance eligible individuals" (AEI) is extended for 6 more months, from a maximum of 9 months to a maximum total of 15 months; and
- The last day by which an individual can become an AEI (by having an involuntary termination of employment qualifying event and becoming eligible for COBRA continuation coverage) is extended from December 31, 2009 to February 28, 2010.

A group health plan administrator must notify all individuals who are AEIs on or after October 31, 2009 of the extension rules. This notice must be provided no later than February 19, 2010 (60 days after the Act became law). Future AEIs must be notified of these rules within the normal timeframe for providing COBRA notices.

The Act allows AEIs whose subsidy expired and who chose not to (or were unable to) pay the full COBRA premium the opportunity to retroactively reinstate their COBRA coverage to take advantage of the extended subsidy. In order to retroactively reinstate COBRA coverage, AEIs who had reached the end of their original 9-month reduced premium period before December 21, 2009 must pay 35% of the COBRA premium for coverage periods beginning after the original 9-month period expired. The premium payment is due by the later of February 19, 2010 (60 days from the enactment date of the Act) or, if later, 30 days after notice of the extension is provided by the group health plan's plan administrator. The Act also requires employers to offset future COBRA premiums or issue refund checks for AEIs who overpaid their COBRA premiums.

Additional guidance regarding the notice requirements is expected from the Employee Benefits Security Administration.

If you have any questions regarding the COBRA subsidy extension or any employee benefits matter, please contact the author of this E-News Alert or any member of the Butzel Long Employee Benefits Practice Group.

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