

June 1, 2010



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IN THIS COMPLIANCE ALERT:

COBRA PREMIUM SUBSIDY EXTENSION IS DELAYED

DOL MODEL NOTICES

COBRA PREMIUM SUBSIDY EXTENSION IS DELAYED

The Senate adjourned for its Memorial Day recess without taking action on H.R. 4213, The American Jobs and Closing Tax Loopholes Act of 2010. This act would temporarily extend the existing 65% federal COBRA health insurance premium subsidies through November 30, 2010. Without the extension, employees who are involuntarily terminated after May 31 will not be eligible for the 65%, 15-month premium subsidy. The Senate is expected to review the bill soon after their return on June 7 and if approved, the premium subsidies would be retroactive to June 1.

DOL MODEL NOTICES

The Department of Labor's Employee Benefits Security Administration COBRA page includes the model notices updated for the extension provisions of the Continuing Extension Act of 2010 (CEA), which extended through May 31, 2010 the eligibility period for the COBRA premium subsidy under ARRA. There are five COBRA ARRA model notices now available from the DOL. They are available on the DOL website at: <http://www.dol.gov/ebsa/COBRAmode notice.html>

MODEL NOTICES

Each model notice is designed for a particular group of qualified beneficiaries and contains information to help satisfy ARRA's notice provisions, including those added by the 2010 CEA Act. The following notices are now available:

[Model Updated General Notice](#) Plans subject to the Federal COBRA provisions must provide the updated General Notice to all qualified beneficiaries (not just covered employees) who experienced a qualifying event at any time from September 1, 2008 through May 31, 2010, regardless of the type of qualifying event, and who have not yet been provided an election notice. This model notice includes updated information on the premium reduction, as well as information required in a COBRA election notice.

Note: Individuals who experienced a qualifying event that was a termination of employment from April 1, 2010 through April 14, 2010 may not have been provided proper notice. Those individuals who have not been provided any notice must get the updated General Notice and receive the full 60 days from the date the updated notice is provided to make a COBRA election. Those individuals who have been provided a notice that did not include information related to the most recent extension must also be provided this updated information. Depending on the specific circumstances, either the Supplemental Information

Notice or the Notice of Extended Election Period may be used. See below for additional details.

[Model Notice of New Election Period](#) Plans subject to continuation coverage provisions under Federal or State law should provide, within 60 days of the date of the termination of employment, a Notice of New Election Period to all individuals who:

- experienced a qualifying event that was a reduction in hours at any time from September 1, 2008 through May 31, 2010;
- subsequently experience a termination of employment at any point from March 2, 2010 through May 31, 2010; and
- either did not elect continuation coverage when it was first offered or elected but subsequently discontinued the coverage.

Generally, individuals who have experienced a qualifying event that consists of a reduction of hours and who, from March 2, 2010 through May 31, 2010, experience an involuntary termination of employment must be provided this notice within 60 days of the event. Additionally, CEA provides that for the April 1, 2010 through April 14, 2010 period, the notice requirement attaches to any termination of employment. The Department strongly recommends that notice be provided to individuals who experienced any termination of employment because employers may be subject to civil penalties if it is later determined that the termination was involuntary and notice was not provided.

[Model Supplemental Information Notice](#) Plans that are subject to continuation coverage provisions under Federal or State law should provide the Supplemental Information Notice to all individuals who elected and maintained continuation coverage based on the following qualifying events:

- all qualifying events related to a termination of employment that occurred from March 1, 2010 through April 14, 2010 for which notice of the availability of the premium reduction available under ARRA was not given; or
- reductions of hours that occurred during the period from September 1, 2008 through May 31, 2010 which were followed by a termination of the employee's employment that occurred on or after March 2, 2010 and by May 31, 2010.

For the first item above, plans must provide this notice to all individuals with a qualifying event related to any termination of employment if they have not already been provided notice of their rights under ARRA. This notice must be provided before the end of the required time period for providing a COBRA election notice. For the second item above, generally, individuals who experience an involuntary termination of employment from March 2, 2010 through May 31, 2010 after experiencing a qualifying event that consists of a reduction of hours must be provided this notice within 60 days of the termination of employment. However, as noted above, CEA requires plans to provide notices to all individuals with qualifying events related to any termination of employment that occurred from April 1, 2010 through April 14, 2010. In those cases, this notice must be provided before the end of the required time period for providing a COBRA election notice. Because employers may be subject to civil penalties if it is later determined that the termination was involuntary, the Department strongly recommends that notice be provided to individuals who experienced any termination of employment.

[Notice Model Notice of Extended Election Period](#) Plans that are subject to continuation coverage provisions under Federal or State law must provide, before the end of the required time period for providing a COBRA election notice, the Notice of Extended Election Period to all individuals who:

- experienced a qualifying event that was a termination of employment at some time from April 1, 2010 through April 14, 2010;
- were provided notice that did not inform them of their rights under ARRA, as amended by CEA; and
- either chose not to elect COBRA continuation coverage at that time or elected COBRA but subsequently discontinued that coverage.

[Model Updated Alternative Notice](#) Insurance issuers that offer group health insurance coverage that is subject to comparable continuation coverage requirements imposed by State law must provide the Alternative Notice to all qualified beneficiaries, not just covered employees, who have experienced a

qualifying event through May 31, 2010. However, because continuation coverage requirements vary among States, this notice should be further modified to reflect the requirements of the applicable State law. Issuers of group health insurance coverage subject to this notice requirement should feel free to use the model Alternative Notice, the model Notice of New Election Period, the model Supplemental Information Notice, the model Notice of Extended Election Period, or the model General Notice (as appropriate).

CONCLUSION

Trion is providing you with this update based on the latest information available and we will continue to provide updates as new material is released.

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