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» IN THIS COMPLIANCE ALERT:

DOL RELEASES MODEL NOTICES

The Department of Labor's Employee Benefits Security Administration has updated their COBRA page to now include the model notices updated for the extension provisions of the 2010 Department of Defense Appropriations Act (2010 DOD Act), and originally created under the American Recovery and Reinvestment Act of 2009 (ARRA). The Department revised the model notices to help plans and individuals comply with the new requirements. They are available on the DOL website at:

<http://www.dol.gov/ebsa/COBRAmodeInotice.html>.

COBRA PREMIUM SUBSIDY EXTENSION

The 2010 DOD Act extends two key provisions affecting the current rules surrounding the Premium Subsidy.

- Employees are now eligible for the federal premium COBRA subsidy for up to fifteen months. This is an increase of six months from the original bill.
- Employees who are involuntarily terminated through February 28, 2010 are now eligible for the subsidy. This extends the qualifying event date of December 31, 2009 in the original bill by two months.

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 DOD Act. The following notices are now available:

**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 February 28, 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.

Guidance has been provided to indicate that individuals who experienced a qualifying event (that was a termination of employment) in December 2009 but who were not eligible for COBRA coverage until January 2010 were likely not provided proper notice. These individuals should get the updated General Notice AND the full 60 days from the date the updated notice is provided to make a COBRA election.

**Premium Assistance Extension Notice** Plan administrators must provide notice to certain individuals who have already been provided a COBRA election notice that did not include information regarding ARRA, as amended. This model Premium Assistance Extension Notice includes information about the changes made to the premium reduction provisions of ARRA by the 2010 DOD Act. Listed below are the affected individuals and the associated timing requirements.

- Individuals who were "assistance eligible individuals" as of October 31, 2009 (unless they are in a transition period - see below), and individuals who experienced a termination of employment on or after October 31, 2009 and lost health coverage (unless they were already provided a timely, updated General Notice) must be provided notice of the changes made to the premium reduction provisions of ARRA by the 2010 DOD Act by February 17, 2010;
- Individuals who are in a "transition period" must be provided this notice within 60 days of the first day of the transition period. An individual's "transition period" is the period that begins immediately after the end of the maximum number of months (generally nine) of premium reduction available under ARRA prior to its amendment. An individual is in a transition period only if the premium reduction provisions would continue to apply due to the extension from nine to 15 months and they otherwise remain eligible for the premium reduction.

Guidance has been provided that indicates that the groups listed above overlap - creating a situation where an individual may be entitled to multiple notices. Providing the Premium Assistance Extension Notice by the earliest date required will satisfy the notice requirement(s).

**Updated Alternative Notice** Insurance issuers that provide group health insurance coverage must send the Alternative Notice to persons who became eligible for continuation coverage under a State law. Continuation coverage requirements vary among States, and issuers should modify this model notice as necessary to conform it to the applicable State law. Issuers may also find the model Premium Assistance Extension Notice or the updated model General Notice appropriate for use in certain situations.

## CONCLUSION

Trion is providing you with this update based on available information and interpretation of the Premium Assistance of COBRA Benefits section of the Department of Defense Appropriations Act of 2010. Trion will continue to provide updates as additional information becomes available.

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