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DOL Publishes Updated Model COBRA Notices

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WOODS ROGERS PLC

Labor & Employment Update

The American Recovery and Reinvestment Act of 2009 (“ARRA”), as amended on December 19, 2009 by the Department of Defense Appropriations Act, 2010 (“2010 DOD Act”), provides for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”). Eligible individuals pay only 35 percent of their COBRA premiums. The remaining 65 percent is reimbursed to the coverage provider via a tax credit. To qualify, individuals must experience a COBRA-qualifying event (involuntary termination of a covered employee's employment). The involuntary termination must occur during the period that began September 1, 2008 and ends on February 28, 2010. The premium reduction applies to periods of health coverage that began on or after February 17, 2009 and lasts for up to 15 months.

ARRA, as amended by the Department 2010 DOD Act, mandates that plans notify certain current and former participants and beneficiaries about the premium reduction. On January 13, 2010, DOL published model notices to help plans and individuals comply with these requirements. 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.

Plans subject to COBRA must provide an 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.

Cautionary Note: Individuals who experienced a qualifying event (involuntary termination) in December 2009, but who were not eligible for COBRA coverage until January 2010, likely were not provided proper notice. These individuals should receive the updated General Notice *and* the full 60 days from the date the updated notice is provided to make a COBRA election.

Also, 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.

For more information concerning the amendments to the COBRA premium reduction rules, visit: <http://www.dol.gov/ebsa/COBRAModelNotice.html>

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