

DOL Releases Revised Model COBRA Notices, Additional Material

January 14, 2010

The Department of Labor (DOL) released revised model COBRA notices and additional supporting material (including FAQs) this week in response to the COBRA 65% assistance payment changes contained in the Department of Defense Appropriations Act 2010 (DOD Act).

These model notices update last year's General Notice and Alternative Notice created as a result of the American Recovery and Reinvestment Act of 2009 (ARRA) and also contain a new Premium Assistance Extension Notice to address the transition issues created by the tardy passage of the DOD Act.

Employers should review the revised General Notice (or, for state mini-COBRA rules, the Alternative Notice) and immediately incorporate it into their ongoing COBRA enrollment material. This may take the form of completely replacing current COBRA enrollment material or, perhaps, updating last year's employer customized "snap on" ARRA notice that, when added to existing COBRA enrollment material, addressed the special rules applicable to the ARRA 65% assistance payment. The revised COBRA enrollment material should also apparently be sent as soon as possible to anyone who experienced a qualifying event after December 19, 2009. Sending the revised COBRA enrollment material will restart the COBRA 60-day election period.

Employers should also review and quickly distribute the Premium Assistance Extension Notice to certain individuals who have already received COBRA enrollment material. These individuals are:

- All individuals who were eligible for the ARRA 65% assistance as of October 31, 2009
- Individuals who are in a DOD Act transition period because their ARRA 65% assistance payment ran out in December or January
- Individuals who experienced a termination of employment on and after October 31, 2009 but who will not receive the revised General Notice

The DOL, in a statement released along with the revised notices, indicated that distributing the Premium Assistance Extension Notice by January 29 to all three groups will satisfy the additional notification obligations for these three groups under the DOD Act.

The revised notices, along with supporting material, can be found at <http://www.dol.gov/ebsa/COBRA.html>. We understand the DOL will hold a webinar on the revised

model notices in the next week or so. If you are interested in attending the webinar, be certain to sign up for DOL COBRA updates at <http://www.dol.gov/ebsa/COBRA.html>.

For additional information about the DOD Act changes, please see the material from our January 5, 2010 webcast, “COBRA ARRA Extension: Better Late Than Never!”¹ as well as the Morgan Lewis LawFlash, “COBRA ARRA 65% Assistance Payment Eligibility, Duration Extended” (December 22, 2009).²

Please contact any of the Morgan Lewis attorneys listed below if you have any questions or if we can assist with integrating the new DOL notices into your COBRA administration material:

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1. Available online at http://www.morganlewis.com/pubs/EBWebcast_COBRA-ARRA-Extension_5jan10.pdf.

2. Available online at http://www.morganlewis.com/pubs/EBLF_COBRA-ARRA65Extended_22dec09.pdf.

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