

January 7, 2010

COBRA SUBSIDY EXTENDED

In February 2009, the American Recovery and Reinvestment Act of 2009 ("ARRA") provided for a government subsidy equal to 65% of the COBRA Continuation Premium for an individual who lost health coverage as a result of termination of employment. This subsidy under ARRA was available for those who terminated employment between September 1, 2008 and December 31, 2009 and was available for a period of nine months. The COBRA subsidy has now been extended in several key aspects. The nine (9) month period has been extended to fifteen (15) months. In addition, the extended subsidy now applies to those with an involuntary termination of employment on or before February 28, 2010, regardless of when the resulting loss of coverage occurs.

To be eligible for the extended subsidy, an individual must be an "Assistance Eligible Individual" ("AEI"), which is a COBRA qualified beneficiary who:

- Becomes eligible for COBRA during the period beginning September 1, 2008 and ending February 28, 2010 due to the involuntary termination of employment of the covered employee; and
- Actually elects for COBRA continuation coverage.

With respect to any period of coverage beginning before December 19, 2009, to which the subsidy applies, a transition period has been established to provide for the application of the extended subsidy. An AEI will be considered to have made timely COBRA premium payments for the transition period if the AEI:

- Had COBRA continuation coverage for the period immediately prior to the transition period; and
- Pays the premium by February 17, 2010 or, if later, within thirty (30) days of the receipt of the Notice described below.

Plan sponsors must provide notice of the subsidy extension by February 17, 2010 to any individuals who were assistance eligible individuals on or after October 31, 2009 that they may continue to pay for their COBRA at subsidized rates for up to fifteen (15) months (in total) and that they may reinstate COBRA coverage for which they had stopped paying.

An AEI who pays an unsubsidized COBRA premium during the transition period is entitled to either a reimbursement of the excess premium payment or a credit towards future premiums, as was the case under ARRA.

Please contact a McMahon Berger attorney with questions about these or any other issues.

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