

bailey benefit news

This update is sent periodically to keep you informed of employee benefit plan issues that may impact your organization.



December 22, 2009

COBRA SUBSIDY EXTENSION

On December 21st, President Obama signed into law the Fiscal Year 2010 Defense Appropriations Act. This law is an extension and expansion of the COBRA premium subsidy law under the American Recovery and Reinvestment Act (ARRA) that was due to expire on December 31st. The subsidy cap will remain at 65%, but this law extends the program through February 28, 2010, expands the subsidy period by 6 months and requires new notices within a tight timeframe.

Earlier this year, in response to the poor economic conditions, the American Recovery and Reinvestment Act of 2009 established a new law under which "Assistance-Eligible Individuals" (AEIs) were initially entitled to receive a 65% subsidy for continuation coverage premiums for up to 9 months. Under the original law, an AEI is defined as any COBRA qualified beneficiary who elects COBRA coverage (1) has a loss of group health coverage as a result of an involuntary termination of employment (other than gross misconduct); and (2) has a qualifying event between September 1, 2008, and December 31, 2009.

Following are the key provisions of the COBRA subsidy extension:

- 1) The amount of time an AEI can receive a subsidy increases from 9 months to 15 months. The law, however, does not change the maximum COBRA eligibility period. Therefore, beneficiaries who exhaust their COBRA coverage may not be eligible for the full 15 months of subsidy.
- 2) The subsidy eligibility period is expanded to include the period that begins September 1, 2008, and ends February 28, 2010 (formerly December 31, 2009). It is important to note the new extension does not require that COBRA coverage begin by the end of the period (February 28, 2010). Instead, the person is an AEI as long as the COBRA qualifying event (involuntary termination of employment) occurs by February 28, 2010 and is entitled to COBRA coverage as a result of that event.
- 3) For any AEI for whom the premium subsidy now applies due to the extension, there is a transition period for the retroactive payment of premiums for AEI's who exhausted their original 9 month COBRA subsidy. Plan administrators must provide a notice on extension rights to AEIs who did not timely pay the COBRA premium or paid the full (non-subsidized) premium. The notice must be provided within the first 60 days of the AEI dropping or overpaying for COBRA.
- 4) An AEI who qualifies for the extension must pay for coverage no later than 60 days after the extension's enactment (December 19, 2009) or February 17, 2010 (or if later, 30 days after the notice was provided).
- 5) Plan administrators must provide notices of the new extension rights to individuals who became AEIs or if they terminated employment (voluntarily or involuntarily) on or after October 31, 2009. The

notice must be provided within 60 days after the extension's enactment date (December 19, 2009) or February 17, 2010 or if later, consistent with the timing of COBRA notices.

If you utilize the services of a COBRA administrator, it is likely the additional notices will be incorporated in their standard COBRA package. If you administer COBRA in-house, we will send you sample notifications once they are issued.

Until sample notifications are issued, we recommend that you maintain a list of all AEs that exhausted their original nine month COBRA subsidy period, dropped their COBRA coverage or paid the full premium. This also applies to anyone who becomes eligible for COBRA effective January 1, 2010 due to an involuntary termination.

If you have any questions regarding this information, contact your Bailey & Company Account Team.

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