

U.S. Department of Labor Issues Model Notices for COBRA Premium Reduction

As expected, earlier today the U.S. Department of Labor issued model notices to use in notifying certain current and former participants and beneficiaries about the premium reduction under the American Recovery and Reinvestment Act ("ARRA"). (In March, we issued an alert to clients that describes the premium reduction in detail. Our March alert is available at: <http://www.mbbp.com/resources/employment/newsletters/ela/0209-stimulus.PDF>.) Generally, ARRA makes certain involuntarily terminated employees (and their covered dependants) eligible for a 65% COBRA premium subsidy for up to nine (9) months. ARRA requires that notice concerning the premium reduction be provided to certain former participants by April 18, 2009. The model notices issued by the Department of Labor and additional information are available at: <http://www.dol.gov/ebsa/COBRAmodelnotice.html>.

As described below, each model notice issued by the Department of Labor is designed for a particular group of qualified beneficiaries and contains information to satisfy ARRA's notice provisions.

- **General Notice (Full Version).** This full version of the General Notice includes information on the premium reduction as well as information required in a COBRA election notice. The DOL website instructs that group health insurance plans subject to federal COBRA must send the General Notice to all qualified beneficiaries -- not just covered employees -- who experienced a qualifying event at any time from September 1, 2008 through December 31, 2009, regardless of the type of qualifying event. (In other words, although the premium reduction is available to those who lost coverage as a result of an involuntary termi-

nation, the notice requirement is not so limited.)

- **General Notice (Abbreviated Version).** This notice may be sent in lieu of the full version to individuals who experienced a qualifying event on or after September 1, 2008, have already elected COBRA coverage, and still have it. The abbreviated version of the General Notice includes the same information as the full version regarding the availability of the premium reduction and other rights under ARRA, but omits the COBRA coverage election information.

- **Alternative Notice.** The premium reduction provided under ARRA applies to state mini-COBRA plans (for ex-



ample, Massachusetts mini-COBRA) whose employer sponsors have less than 20 employees. (Federal COBRA generally applies to group health plans sponsored by employers with 20 or more employees.) The Massachusetts Division of Insurance has issued a Consumer Alert that provides information concerning the premium reduction under Massachusetts mini-COBRA, which is available on the Division's website. Currently, the special election period that is available under federal COBRA for individuals involuntarily terminated from September 1, 2008 through February 16, 2009 who did not elect continuation coverage under mini-COBRA, or who declined it, or who elected it and then terminated for lack of payment, is not available under Massachusetts mini-COBRA. The DOL's website instructs that the alternative notice must be sent by "insurance issuers" that provide group health insurance coverage to persons who became eligible for continuation coverage under a state law (such as Massachusetts mini-COBRA). Further, the DOL website instructs that insurance issuers should modify the model notice as necessary to conform it to the applicable state law.

- **Notice in Connection with Extended Election Periods.**

Plans subject to federal COBRA provisions must send the Notice in Connection with Extended Election Periods to any assistance eligible individual (or any individual who would be an assistance eligible individual if a COBRA continuation election were in effect) who:

1. Had a qualifying event at any time from September 1, 2008 through February 16, 2009; and
2. Either did not elect COBRA continuation coverage, or who elected it but subsequently discontinued COBRA.

This notice includes information on ARRA's additional election opportunity, as well as premium reduction information.

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Robert M. Shea – rshea@mbbp.com

Donald W. Parker – dparker@mbbp.com

John J. Gallini – jgallini@mbbp.com

Scott J. Connolly – sconnolly@mbbp.com