



# COBRA Subsidy Program Extended Again

## Client Advisories

03.02.2010

---

On March 2, 2010, President Obama signed into law the Temporary Extension Act of 2010 ("TEA") which provides a second short-term extension of the 65% COBRA premium subsidy that was due to expire on February 28, 2009, as well as short extensions of other government programs, including unemployment compensation.

The COBRA subsidy program was originally enacted in February 2009 as part of the American Recovery and Reinvestment Act of 2009. See our Client Advisory dated [February 24, 2009](#) for details of the original program. On December 19, 2009, Congress enacted a short-term extension of the COBRA subsidy, which extended the period for qualifying involuntary terminations from December 31, 2009 to February 28, 2010, and expanded the subsidy period from 9 months to 15 months. See our Client Advisory dated [December 23, 2009](#) for details of the first extension.

The TEA's COBRA provisions have two main purposes.

- Extends, by one month, the eligibility period for the 15-month premium subsidy to those involuntarily terminated through March 31, 2010.
- Grants certain employees—those who first lost group coverage due to a reduction in hours which occurred between September 1, 2008 through March 31, 2010 who did not make (or made and discontinued) an election of COBRA coverage AND who are subsequently involuntarily terminated between March 2, 2010 through March 31, 2010—a new period to elect coverage and receive the subsidy. Such employees must be provided a special notice of their election rights within 60 days of termination of employment.

The period of coverage for an assistance eligible individual who first lost coverage due to a reduction in hours will be deemed to have commenced at the time of the reduction in hours, not at the time of termination of employment, regardless of whether the individual elected COBRA continuation during the COBRA election period related to the reduction of hours.

The TEA also makes a revision in the calculation of the subsidy period: effective March 2, 2010, the 15-month subsidy period will expire on the date that is 15 months after the first day that the ARRA premium reduction

applies. The law does not extend COBRA coverage beyond the customary (usually 18 months) continuation period.

A civil penalty of \$110 per day for failure to comply with a government determination of wrongful denial of COBRA premium assistance and a safe harbor for determining whether a qualifying event was involuntary termination of employment were added by TEA. The safe harbor requires an employer to maintain supporting documentation of its determination, including an employer attestation of involuntary termination with respect to the employee.

Employers can expect additional regulatory guidance, including notice forms, regarding implementation of the new law to be issued.

Note that this short-term extension of the COBRA subsidy is intended to be a stop gap measure to give Congress more time to consider legislation to further extend this and other programs. Congress is currently debating extending the COBRA subsidy to terminations occurring through December 31, 2010. Consider this as you start to track employees who suffered a reduction of hours and may now fall within the definition of an assistance eligible individual. We shall provide further updates as events warrant.

If you need assistance in implementing the latest COBRA subsidy benefits or drafting compliant notices, please contact a member of Archer's Employee Benefits Practice Group at 215-963-3300 or Labor and Employment Practice Group at 856-795-2121.

**Seminar Note: Archer will be holding a free half-day Labor and Employment Seminar at Foresgate Country Club on April 9, 2010 which, among other topics, will cover issues related to COBRA continuation coverage.**

DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal advice, and may not be used and relied upon as a substitute for legal advice regarding a specific legal issue or problem. Advice should be obtained from a qualified attorney licensed to practice in the jurisdiction where that advice is sought.

## Related Services

- Labor & Employment

© 2025 Archer & Greiner, P.C. All rights reserved.

