

## COBRA PREMIUM SUBSIDY EXTENSION SIGNED INTO LAW

On December 19, 2009, Congress passed legislation that extends the eligibility period for the 65 percent COBRA premium subsidy from December 31, 2009 to February 28, 2010, and increases the maximum subsidy period from 9 to 15 months. ***The longer maximum subsidy period applies retroactively, and health plan administrators must provide a supplemental notice to affected individuals no later than February 19, 2010.***

Congress included the COBRA premium subsidy in the American Recovery and Reinvestment Act (ARRA), the economic stimulus law passed earlier this year, to help laid off employees and their families maintain group health coverage. ***(See our Client Alert at [www.jaekle.com/COBRA2009](http://www.jaekle.com/COBRA2009))*** The original COBRA subsidy was available to any individual who lost group health coverage due to an involuntary termination of employment between September 1, 2008 and December 31, 2009. The subsidy was equal to 65% of the regular COBRA premium, and could last as long as 9 months.

The new law enacts the following changes:

- The eligibility period for the subsidy has been extended to February 28, 2010. Thus, the subsidy will apply to employees (and their qualified beneficiaries) who lose health coverage through February 28, 2010 due to an involuntary termination of employment.
- The maximum period of COBRA premium assistance is increased from 9 months to 15 months. The subsidy will terminate earlier if the individual becomes eligible for other employer provided health coverage or Medicare.
- The extension of the maximum subsidy period applies retroactively to any individual who previously was eligible for the subsidy. Any such individual who had reached the end of the maximum 9 month subsidy period will have until February 19, 2009 (60 days after enactment of the new law) or, if later, 30 days after receiving notice of the extension, to retroactively pay the reduced premiums relating to the extension period. For example, an eligible individual who stopped paying for COBRA coverage on November 30, 2009 could elect in January 2010 to pay his or her 35% share of the premium for December 2009 and receive retroactive COBRA coverage for December. If an eligible individual already paid the full premium for a period of COBRA coverage, the subsidy must be refunded or credited against additional months of COBRA coverage.
- Plan administrators must provide notice of the extension by February 19, 2010 (60 days after enactment of the new law) to any person who was eligible for the subsidy on or after October 31, 2009. Going forward, plan administrators must provide the

revised subsidy information as part of their regular COBRA notices, within the time period mandated by COBRA.

Employers who sponsor group health plans will need to:

- identify individuals who are eligible for the COBRA premium subsidy on or after October 31, 2009, and provide the required supplemental notice; and
- revise their COBRA notices for any employees who become entitled to the subsidy through February 28, 2010.

If you have any questions about the COBRA premium subsidy, please contact Robert W. Patterson at 716.843.3910 or [rpatterson@jaeckle.com](mailto:rpatterson@jaeckle.com) or Michele O. Heffernan at 716.843.3850 or [mheffernan@jaeckle.com](mailto:mheffernan@jaeckle.com).

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