

## COBRA PREMIUM SUBSIDY EXTENDED AGAIN

On April 15, 2010, President Obama signed into law another extension of the COBRA premium assistance program. Under the latest extension, the COBRA premium subsidy will be available to eligible individuals who are involuntarily terminated from employment through May 31, 2010. The subsidy had previously expired and, until extended, did not apply to involuntary terminations after March 31, 2010. Because the latest extension is retroactive, those employees involuntarily terminated on and after April 1, 2010 must be notified of their right to elect COBRA and receive the subsidy. The subsidy eligibility rules have not been changed.

The COBRA premium assistance program was created by the American Recovery and Reinvestment Act of 2009. See our previous Alerts on the COBRA premium subsidy:

- [New COBRA Obligations Effective March 1, 2009](#)
- [COBRA Premium Subsidy Extension Signed Into Law](#)
- [Congress Extends \(For The Second Time\) and Expands The COBRA Premium Subsidy](#)

Under the original law, the subsidy was available only to eligible individuals who were involuntarily terminated on or before December 31, 2009. The subsidy has been extended twice, to February 28, 2010 and then to March 31, 2010. Under the latest extension, contained in the Continuing Extension Act of 2010 (P.L. 111-157), premium assistance will be available to eligible individuals who are involuntarily terminated from employment through May 31, 2010. Congress continues to work on a bill that would extend the subsidy through December 31, 2010. If an eligible individual was involuntarily terminated on or after April 1, 2010 and is not currently receiving COBRA coverage, he or she must be given at least 60 days to elect COBRA and take advantage of the 65% premium subsidy. Employers and plan administrators must notify any such individual of the availability of the subsidy no later than June 14, 2010 (60 days after enactment of the latest extension).

Employers and plan administrators should also remember:

- Under the extension law passed in March (see our Alert [Congress Extends \(For The Second Time\) and Expands The COBRA Premium Subsidy](#)), the subsidy is now available to an employee who initially qualifies for COBRA as a result of a reduction of hours of employment, and is later involuntarily terminated.
- Also under the March 2010 extension law, a termination of employment shall be deemed to be an involuntary termination, such that the terminated employee will qualify for premium assistance, provided that (1) the employer determines that such termination is an involuntary termination based on a reasonable interpretation of the law and the administrative guidance thereunder, and (2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination.

***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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