

COBRA SUBSIDY EXTENDED ONCE AGAIN

By: Peg O'Brien, Esq.
Email: maobrien@devinemillimet.com
Phone: 603.695.8631

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Last Thursday, April 15, 2010, President Obama signed into law the Continuing Extension Act of 2010, which among other things, once again extended the federal premium subsidy for COBRA coverage. The terms of the subsidy remain unchanged from the previous extension, except that individuals who have a qualifying event as a result of an involuntary termination from April 1, 2010 through May 31, 2010 are now eligible for the subsidy. The previous extension expired March 31, 2010.

Background: The American Recovery and Reinvestment Act of 2009 ("ARRA"), as amended, provided for premium reductions for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). Assistance eligible individuals pay only 35 percent of their COBRA premiums; the remaining 65 percent is reimbursed to the coverage provider through a federal tax credit. The premium reduction applies to periods of health coverage that began on or after February 17, 2009 and lasts for up to 15 months.

Eligibility: An "assistance eligible individual" is the employee or a member of his/her family who elects COBRA coverage within the required time period following a qualifying event related to an *involuntary termination* of employment that occurs at any point from:

- (1) September 1, 2008 through May 31, 2010; or
- (2) March 2, 2010 through May 31, 2010 if:
 - o the involuntary termination follows a qualifying event that was a reduction of hours; and
 - o the reduction of hours occurred at any time from September 1, 2008 through May 31, 2010 (a reduction of hours is a qualifying event when the employee and his/her family lost coverage because the employee, though still employed, is no longer working enough hours to satisfy the group health plan's eligibility requirements).

Labor, Employment & Employee Benefits

Mark Broth, Chair
603.695.8558
mbroth@devinemillimet.com

Newton Kershaw
603.695.8571
nkershaw@devinemillimet.com

Patricia McGrath
603.695.8537
pmcgrath@devinemillimet.com

Anthony Augeri
978.475.9100
aaugeri@devinemillimet.com

Margaret O'Brien
603.695.8631
mobrien@devinemillimet.com

Anne Scheer
603.410.1708
ascheer@devinemillimet.com

Laurel Van Buskirk
603.695.8565
lvanbuskirk@devinemillimet.com

DEVINEMILLIMET.COM

EMPLOYMENT@DEVINEMILLIMET.COM

Employees who are eligible for another group health coverage plan (for example, a spouse's plan or a new employer's plan) or Medicare are not eligible for the premium reduction.

Retroactive Application: The newly signed law provides retroactive eligibility for individuals who lost their jobs after the prior COBRA subsidy expired on March 31, 2010. Accordingly, if an "assistance eligible employee" experienced a COBRA qualifying event since March 31, 2010, he/she must be provided with an updated COBRA notice in light of the Continuing Extension Act.

What Employers Can Do: The Department of Labor has updated its [fact sheet](#) on COBRA in light of the Continuing Extension Act and provides extensive information on this topic. Employers should update their COBRA forms to reflect the terms of the extension. In addition, employers should look for additional information on yet another extension of COBRA in the coming months. Congress is expected to move forward on additional legislation this year which will potentially extend the subsidy through the end of the year. We will provide additional information on any future extensions should they occur. *If you have any questions regarding the COBRA extension, please contact any of the Employee Benefits attorneys on our website.*

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Office Locations:

111 Amherst Street
Manchester, NH 03101
T 603.669.1000
F 603.669.8547

300 Brickstone Square
Andover, MA 01810
T 978.475.9100
F 978.470.0618

43 North Main Street
Concord, NH 03301
T 603.226.1000
F 603.226.1001

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