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How the COBRA Subsidy Works

The 65% COBRA premium subsidy is structured as a premium reduction, meaning that assistance eligible individuals are required to pay only 35% of the required COBRA premium amount. The remaining 65% of the premium amount generally is paid by the employer. After receiving the 35% premium payment from the assistance eligible individual, the employer then recovers the 65% premium payment amount through a payroll tax credit. If the amount of the premium payment is greater than the payroll tax liability for a period, the employer will be eligible for a refund or a credit of payroll taxes equal to the excess amount.

The premium reduction applies to periods of COBRA coverage that began on or after February 17, 2009, and the maximum period for receiving the subsidy is 15 months. Subsidy eligibility is conditioned in part on the timing of an individual's qualifying event, rather than the date of the individual's loss of group health coverage. This means that an individual who does not become entitled to COBRA by March 31, 2010 (e.g., because the individual is receiving severance benefits), will remain eligible for the subsidy as long as the requisite qualifying event occurs by the applicable deadline.

Second COBRA Subsidy Extension Requires Immediate Attention

On March 2, 2010, President Obama signed the Temporary Extension Act of 2010 (the "TEA"), further extending the 65% COBRA premium subsidy established under the American Recovery and Reinvestment Act of 2009. The TEA made the following important changes to the COBRA premium subsidy:

- **Extension of Eligibility Period.** Previously, the COBRA premium subsidy was only available to individuals who became eligible for COBRA continuation coverage due to an involuntary termination of employment that occurred by February 28, 2010, and a resulting loss of group health coverage. The TEA extends the eligibility period so that individuals who are involuntarily terminated from employment by March 31, 2010, can qualify for the subsidy.
- **Clarification Regarding Qualifying Event.** The TEA also clarifies that an individual who experiences a qualifying event that is a reduction of hours occurring between September 1, 2008, and March 31, 2010, and who subsequently experiences an involuntary termination of employment occurring on or after March 2, 2010, will be eligible for the subsidy if the individual is otherwise eligible. This rule applies only to COBRA periods beginning after March 2, 2010 (e.g., if a plan's COBRA period begins on the first of the month, the first subsidized coverage period would begin on April 1, 2010).
- **New Election Period.** If an individual first became entitled to COBRA because of a reduction of hours that occurred between September 1, 2008, and March 31, 2010, but did not elect COBRA (or did elect COBRA but discontinued coverage), the individual will be entitled to a second COBRA election period if the individual is later involuntarily terminated on or after March 2, 2010.
- **Notices.** Group health plan administrators are required to provide an additional COBRA notice describing the new rules to all individuals who are eligible for the subsidy because of a reduction of hours and subsequent involuntary termination of employment. The notice must be provided no later than 60 days after the involuntary termination.

Contact Information. For additional information or for questions regarding these new changes, please contact Nicole Bogard (404.888.8830), Amy Heppner (404.888.8825), Kelly Scott (404.888.8838), or Angela Marino (404.888.8822).

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