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# Special Alert!

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## COBRA Subsidy Extended Into 2010

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On December 21, 2009, President Obama signed into law an extension of the COBRA subsidy enacted as part of last February's American Recovery and Reinvestment Act of 2009 (ARRA). This new provision, Section 1010 of the Department of Defense Appropriations Act (the "Act"), extends the length of the subsidy to already-qualified former employees ("assistance eligible individuals") and provides subsidy coverage for workers who are involuntarily discharged prior to February 28, 2010.

Under ARRA, the federal government subsidizes 65% of the health care premium cost for assistance eligible individuals. The subsidy is provided in the form of a payroll tax credit to employers.

The ARRA subsidy originally covered employees who were involuntarily terminated between September 1, 2008 and December 31, 2009. Under the new extension, employees who are involuntarily discharged between January 1, 2010 and February 28, 2010 will now be eligible for the subsidy. Further, the Act extends the subsidy period for current assistance eligible individuals for an additional 6 months, increasing the subsidy period from 9 to 15 months.

### Retroactive Premium Allowance

The new law also permits employees to retroactively pay

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premiums if they are already assistance eligible individuals whose subsidy expired on November 30, 2009 and who did not pay their December premium. The premium payment must be paid either within 60 days of the law's December 21, 2009 enactment, or within 30 days of the company providing notification of the new law (see below), whichever is later.

New Employer Notification Obligation

Employers have additional notification requirements under the new provisions, as all employees terminated or otherwise eligible for COBRA on or after October 31, 2009 must be informed of these new subsidy provisions. Employers are to provide this additional notification within 60 days of the law's December 21, 2009 enactment.

Clarification Re: Eligibility

The Act corrects the ARRA provisions that required an employee be both terminated *and* eligible for COBRA benefits by the qualifying date. Now, the law clearly states that, to be eligible for the subsidy, an employee must be terminated by February 28, 2010, even if the employee is not eligible for COBRA benefits until a later date.

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