

# GREENBERG & ASSOCIATES INSURANCE

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## **\*\*\* IMPORTANT BULLETIN \*\*\***

**TO: GROUP HEALTH CLIENTS**

**FROM: GREENBERG & ASSOCIATES INSURANCE**

**DATE: DECEMBER 29, 2009**

**RE: COBRA Continuation Assistance under the American Recovery and Reinvestment Act of 2009**

WE RECEIVED THE FOLLOWING NOTICE REGARDING THE EXTENSION OF THE COBRA SUBSIDY WHICH WAS SIGNED INTO LAW ON DECEMBER 21, 2009 BY PRESIDENT OBAMA. AFTER YOU'VE REVIEWED THE FOLLOWING, PLEASE DON'T HESITATE TO LET US KNOW IF YOU HAVE ANY QUESTIONS.

SHARON AND ADRIENNE

The new law is summarized as follows:

**Longer Subsidy Period.** The maximum COBRA premium subsidy period has been extended from the original 9 months to 15 months.

**New Eligibility Cutoff Date.** The cutoff date for employees who are involuntarily terminated and still qualify for the premium subsidy has been pushed back two months—from December 31, 2009 to February 28, 2010.

In addition, the law expressly provides that the subsidy will be available so long as the employee is involuntarily terminated on or before February 28, 2010, even if the employee remains covered under the employer's group health plan through the end of February, and does not actually become eligible for COBRA coverage until March 1 or later. This clause overrides the prior eligibility position of the Department of Labor.

**Restoration of Coverage.** Assistance-eligible individuals who lost coverage upon failing to pay the full COBRA premium after the 9 months of subsidized coverage expired have a second chance to pay the premium (at the 35% subsidized rate) so as to retroactively restore their coverage under the plan. The employee must be allowed a period of at least 60 days of the date of enactment of the law within which to pay the premium, or if later, within 30 days after the notice of restoration right is provided (see below).

An employee who exhausted the 9 months of subsidized coverage, but retained coverage under the plan by paying the full COBRA premium, must receive a refund or a credit towards future COBRA premiums for the overpayment.

**Required Notices.** An assistance-eligible individual whose employment terminated on or after October 31, 2009, and on or before February 28, 2010, must be furnished a notice advising them of the extended subsidy eligibility period. The notice must be provided within 60 days of the date of the enactment of the new law, or if later, as of the date the normal COBRA Election Notice is otherwise required to be provided to the employee.

Assistance-eligible individuals who either lost COBRA coverage by failing to pay the full premium after the end of the original subsidy period, or who continued coverage by paying the full COBRA premium rate, must also be provided with a notice regarding the restoration of coverage, and an outline of the premium overpayment rules discussed above. The notice must be provided within the 60-day post-enactment period.

**Note: The law does not make mention of any model notice to be provided by the Department of Labor.**

**Affect on State Law.** Oregonians who lose their jobs have two options to continue coverage under their group health plan. If their former employer has twenty or more workers, they are eligible under the Consolidated Omnibus Budget Reconciliation Act (COBRA). If their former employer has fewer than twenty workers, they are eligible under Oregon's state continuation law. In February 2009, the federal economic stimulus package extended a 65 percent subsidy for up to nine months of coverage. Recognizing the need for changes to state law to allow Oregonians to obtain the full advantage of the federal subsidy, the Oregon Legislative Assembly enacted House Bill 2433, which extends the period of eligibility for state continuation coverage from six to nine months and allows the Director of the Department of Consumer and Business Services to adopt rules as necessary to allow Oregonians to take full advantage of the benefits provided by the federal law including additional extensions of the period of eligibility to match future extensions or changes in the federal subsidy or COBRA program.

On December 21, 2009, President Obama signed HR 3326, the Fiscal Year 2010 Defense Appropriations Act, which extends the COBRA benefits. These rules amend earlier-adopted provisions to implement House Bill 2433 to match extensions of the federal benefits included in HR 3326. The federal act extends the eligibility period for the ARRA premium reduction for an additional two months (through February 28, 2010) and the maximum period for receiving the subsidy for an additional six months (from nine to 15 months). These temporary rules make the same changes to the state continuation program.