

GREENBERG & ASSOCIATES INSURANCE

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***** IMPORTANT BULLETIN *****

TO: GROUP HEALTH CLIENTS

FROM: GREENBERG & ASSOCIATES INSURANCE

DATE: March 8, 2010

RE: COBRA "Temporary Extension Act of 2010"

The American Recovery and Reinvestment Act of 2009 (ARRA) was amended March 2, 2010 when President Obama signed into law H.R. 4961, the "Temporary Extension Act of 2010". With the implementation of the law, the 65% COBRA subsidy for eligible individuals who have been involuntarily terminated has been extended by one month, from the original end date of February 28, 2010 to March 31, 2010.

At this time, the Department of Labor has not posted any new COBRA Model Documents reflecting the one month extension. In addition, there have been no changes to State Continuation reported by the state.

In addition to the one month extension, the "Temporary Extension Act of 2010" creates a new class of COBRA Assistance Eligible Individuals. The new class is defined as individuals who had the COBRA Qualifying Event of "reduction of hours" of employment on or after September 1, 2008, AND were later involuntarily terminated "on or after the date of the enactment of this paragraph" (directly from H.R. 4691). This allows involuntary termination of someone who had already had their hours reduced to become a second qualifying event. However, unlike most second qualifying events, this new class of Assistance Eligible Individuals would NOT be entitled to 36 months of COBRA. Even if the individual never elected COBRA upon the reduction of hours, or elected and subsequently dropped COBRA, they have a second chance to jump back on COBRA as of the date of their subsequent involuntary termination. This second qualifying event for an employee whose original Qualifying Event was a reduction of hours, and has the second Qualifying Event of involuntary termination results in an 18 month COBRA period. However, the 18 month period would be calculated from the original qualifying event of a reduction in hours, AND the ARRA subsidy would begin as of the second Qualifying Event of involuntary termination. Because of this gap from the original to the second Qualifying Event the end result will be that many individuals in this situation will lose COBRA rights before getting a full 15 months of ARRA subsidy.

The law states "the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual's involuntary termination of employment, an additional notification". As soon as the DOL posts new Model Notices, we will forward them to you. In the meantime, we'd recommend that you consult your benefit attorney for assistance if necessary to modify your current notices to meet the new requirements.

As is often the case, laws are enacted before there is the appropriate information available to administer them. But, we wanted to apprise you of this newest change so you will know about its provisions. As soon as we have greater detail on any of the administrative processes and/or new Model Notices are posted, we will get that information to you. In the meantime, please don't hesitate to contact us if you have any questions.

Sincerely,

Sharon Greenberg and Adrienne Hutchins