

March 19, 2010

## **New Model Notices Reflect Latest Extension of COBRA Subsidy**

The Department of Labor issued new model notices that reflect the most recent extension of the COBRA subsidy, which covers involuntary terminations that occur through March 31, 2010. The following updated model notices are available [here](#).

### **Model Updated General Notice**

Plans must provide the updated General Notice to all qualified beneficiaries (not just covered employees) who experience any qualifying event (regardless of the type of qualifying event) any time from September 1, 2008 through March 31, 2010 and who have not yet been provided a COBRA election notice. In addition, plans should provide the updated General Notice to all qualified beneficiaries who experienced a COBRA qualifying event (that was a termination of employment) on or after March 1, 2010 even if they have previously received an election notice because these individuals may not have been provided with a proper notice. These individuals must be given the full 60 days from the date the updated notice is provided to make a COBRA election.

*Date Notice Must be Provided:* Within the same time periods that normally apply to the COBRA general notice and COBRA election notice.

### **Model Notice of New Election Period**

Plans must provide the updated Notice of New Election Period to an individual who:

- Experiences a qualifying event that was a reduction in hours from September 1, 2008 through March 31, 2010;
- Subsequently experiences a termination of employment from March 2, 2010 through March 31, 2010; and
- Either did not elect COBRA coverage when it was first offered or elected COBRA coverage but later discontinued the coverage.

*Date Notice Must Be Provided:* Within 60 days of the termination of employment.

### **Model Supplemental Information Notice**

Plans must provide the Supplemental Information Notice to any individual who elects and maintains COBRA coverage based on one of the following qualifying events:

- A termination of employment on or after March 1, 2010, if such individual did not receive prior notice of the COBRA subsidy; or
- A reduction of hours from September 1, 2008 through March 31, 2010 that was followed by a termination of employment from March 2, 2010 through March 31, 2010.

*Date Notice Must Be Provided:* Within 60 days of the termination of employment. Individuals with qualifying events that occurred on or after March 1, 2010 that did not receive notice of the COBRA subsidy must be provided this notice before the end of the time period for providing a COBRA election notice.

## **Model Notice of Extended Election Period**

Plans must provide the updated Notice of Extended Election Period to any individual who:

- Experiences a qualifying event that was a termination of employment on or after March 1, 2010;
- Was provided a notice that did not inform them of the COBRA subsidy as extended; and
- Either chose not to elect COBRA continuation coverage at that time or elected COBRA but later discontinued that coverage.

*Date Notice Must Be Provided:* Before the end of the required time period for providing a COBRA election notice.

## **Haynes and Boone Observation: Potential Revision to Model Notices**

Employers may want to add a caveat to the model notices explaining that the determination of whether an employee had an "involuntary termination of employment" for COBRA subsidy purposes does not affect whether the employee is considered to have had an "involuntary termination of employment" for any other purpose.

For more information, please feel free to contact any [lawyer](#) in the [Employee Benefits Group](#).