# U.S. Dept. of Labor Issues Model COBRA Subsidy Notices and Forms

**Articles**

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On February 24, 2009, Archer's Labor and Employment Department issued an alert detailing major changes to the COBRA laws made by the American Recovery and Reinvestment Act of 2009 ("ARRA"). The alert, and a full overview of the COBRA changes, can be found here. As we indicated in that alert, employers and COBRA Administrators are required to provide notice regarding the provisions of the law and its applicability. In some cases, the deadline for providing the required notice is fast approaching. On March 22, 2009, the U.S. Department of Labor ("DOL") issued model notices to explain the COBRA premium subsidy.

As a general overview, under the ARRA, COBRA premiums are subsidized at 65 percent for up to nine months for those who lose group health plan coverage because of an involuntary termination of employment that occurs between September 1, 2008, and December 31, 2009. ARRA also provided a special second election period for qualified beneficiaries who were terminated between September 1, 2008, and February 16, 2009, and who either declined coverage or elected coverage but allowed such coverage to lapse. Generally, a qualified beneficiary includes the employee himself/herself who is no longer employed, as well as the employee's spouse, or dependent children who were covered under the group health plan on the day before the employee's termination of employment. The term also includes a child born to or adopted by a covered employee during a period of COBRA coverage.

ARRA mandates that employers and COBRA administrators notify certain current and former employees and qualified beneficiaries about the premium reduction. Under the notice provision, qualified beneficiaries must be notified of their rights, and, in turn, the qualified beneficiaries must notify the plan administrator of any facts that cause them to lose their entitlement to the subsidy.

The DOL has created model notices to help employers and COBRA administrators comply with these notice requirements. Each model notice is designed for a particular group of qualified beneficiaries and contains information to help satisfy ARRA's notice provisions. According to the DOL, these notices are intended to be used as follows:

General Notice http://www.dol.gov/ebsa/COBRAgeneralnoticefullversion.doc (Full version) Plans subject to federal COBRA provisions must send the General Notice to all qualified beneficiaries, not just covered employees, who experienced a qualifying event at any time from September 1, 2008, through December 31, 2009, regardless of the type of qualifying event. This full version includes information on the premium reduction as well as information required in a COBRA election notice.

General Notice http://www.dol.gov/ebsa/COBRAgeneralnoticeabbreviatedversion.doc (Abbreviated version) The abbreviated version of the General Notice includes the same information as the full version regarding the availability of the premium reduction and other rights under ARRA, but does not include the COBRA coverage election information. It may be sent in lieu of the full version to individuals who experienced a qualifying event during on or after September 1, 2008, have already elected COBRA coverage, and still have it.

Alternative Notice http://www.dol.gov/ebsa/COBRAalternativenotice.doc Insurance issuers that provide group health insurance coverage must send the Alternative Notice to persons who became eligible for continuation coverage under a state law. Continuation coverage requirements vary among states, and issuers will need to modify this model notice as necessary to conform it to applicable state law, including New Jersey's "mini-COBRA" law, which provides COBRA-like benefits to employers with fewer than 20 employees. (NOTE: As of July 10, 2009, Pennsylvania has a similar mini-COBRA law covering employers with fewer than 20 employees). Issuers may also find the model Alternative Notice or the abbreviated model General Notice appropriate for use in certain situations.

Notice in Connection with Extended Election Periods http://www.dol.gov/ebsa/COBRAextendedelectionperiodnotice.doc Plans subject to the Federal COBRA provisions must send the Notice in Connection with Extended Election Periods to any assistance eligible individual (or any individual who would be an assistance eligible individual if a COBRA continuation election were in effect) who: 1) had a qualifying event at any time from September 1, 2008, through February 16, 2009; and 2) either did not elect COBRA continuation coverage, or who elected it but subsequently discontinued COBRA. This notice includes information on ARRA's additional election opportunity, as well as premium reduction information. This notice must be provided by April 18, 2009, and individuals have 60 days after the notice is provided to elect COBRA.

Employers and COBRA Administrators will have to tailor these model notices to comply with the administrative procedures and other requirements of their particular group health plans. In addition, in the case of the Alternative Notice, insurers must ensure that their notices conform to applicable state law. New Jersey's mini-COBRA law requires that such plans offer the extended election period provided under ARRA for employees covered under the federal COBRA law.

If you have any questions about the COBRA changes, or how any upcoming laws may impact your business, please contact a member of Archer's Labor and Employment Department at 856-795-2121.

**Please Note: Archer Free Seminar On this Topic:**
In an effort to assist you with any questions you may have on these COBRA changes, Archer will be offering a

free seminar on this new law, as well as another major new law expected to be enacted later this year, the Employee Free Choice Act. For more information about the breakfast seminar which will be offered on March 26, 2009, in Haddonfield, New Jersey, and April 16, 2009, in Philadelphia.

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