



## SITZMANN ■ MORRIS ■ LAVIS

**TO: Clients of Sitzmann Morris & Lavis, Inc.**

**RE: COBRA Subsidy Model Notices**

If you are covered by CalCOBRA and are not subject to federal COBRA then you need take no action. Your carriers are responsible for providing the proper notice.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Continuing Extension Act of 2010 (CEA), mandates that plans notify certain current and former participants and beneficiaries about the COBRA premium reduction.

On Tuesday the Department of Labor (DOL) published model notices for use by employers to comply with these requirements. Each model notice is designed for a particular group of qualified beneficiaries and contains information to help satisfy ARRA's notice provisions, including those added by CEA.

### [Action Plan](#)

Review your current and former COBRA beneficiaries to determine if they fall into one of the following categories and send the appropriate notice:

a. [Model Updated General Notice](#)

To all qualified beneficiaries who experienced a qualifying event at any time from September 1, 2008 through May 31, 2010, regardless of the type of qualifying event, and who have not yet been provided an election notice. This model notice includes updated information on the premium reduction as well as information required in a COBRA election notice.

**Note:** Individuals who experienced a qualifying event that was a termination of employment from April 1, 2010 through April 14, 2010 may not have been provided proper notice. Those individuals who have not been provided any notice must get the updated General Notice and receive the full 60 days from the date the updated notice is provided to make a COBRA election. Those individuals who have been provided a notice that did not include information related to the most recent extension must also be provided this updated information. Depending on the specific circumstances, either the Supplemental Information Notice or the Notice of Extended Election Period may be used. See below for additional details.

For California plans we have provided the notice with the California extension language included. If your plan is contracted in California use this notice.

b. [Model Notice of New Election Period](#)

Provide within 60 days of the date of the termination of employment, a **Notice of New Election Period** to all individuals who:

- experienced a qualifying event that was a reduction in hours at any time from September 1, 2008 through May 31, 2010;
- subsequently experience a termination of employment at any point from March 2, 2010 through May 31, 2010; and
- either did not elect continuation coverage when it was first offered OR elected but subsequently discontinued the coverage.

Generally, individuals who have experienced a qualifying event that consists of a reduction of hours and who, from March 2, 2010 through May 31, 2010, experience an involuntary termination of employment must be provided this notice within 60 days of the event. Additionally, CEA provides that for the April 1, 2010 through April 14, 2010 period, the notice requirement attaches to any termination of employment. The Department strongly recommends that notice be provided to individuals who experienced any termination of employment because employers may be subject to civil penalties if it is later determined that the termination was involuntary and notice was not provided.

c. [Model Supplemental Information Notice](#)

Provide the **Supplemental Information Notice** to all individuals who **elected and maintained continuation coverage** based on the following qualifying events:

- terminations of employment that occurred from March 1, 2010 through April 14, 2010 for which notice of the availability of the premium reduction available under ARRA was not given; or
- reductions of hours that occurred during the period from September 1, 2008 through May 31, 2010 which were followed by a termination of the employee's employment that occurred on or after March 2, 2010 and by May 31, 2010.

For the first item above, plans must provide this notice to all individuals with a qualifying event related to any termination of employment if they have not already been provided notice of their rights under ARRA. This notice must be provided before the end of the required time period for providing a COBRA election notice. For the second item above, generally, individuals who experience an involuntary termination of employment from March 2, 2010 through May 31, 2010 after experiencing a qualifying event that consists of a reduction of hours must be provided this notice within 60 days of the termination of employment. However, as noted above, CEA requires plans to provide notices to all individuals with qualifying events related to any termination of employment that occurred from April 1, 2010 through April 14, 2010. In those cases, this notice must be provided before the end of the required time period for providing a COBRA election notice. Because employers may be subject to civil penalties if it is later determined that the termination was involuntary, the Department strongly recommends that notice be provided to individuals who experienced any termination of employment.

d. [Model Notice of Extended Election Period](#)

Provide before the end of the required time period for providing a COBRA election notice, the **Notice of Extended Election Period** to all individuals who:

- experienced a qualifying event that was a termination of employment at some time from April 1, 2010 through April 14, 2010;
- were provided notice that did not inform them of their rights under ARRA, as amended by CEA; and
- either chose not to elect COBRA continuation coverage at that time OR elected COBRA but subsequently discontinued that coverage.

**What's Next**

A provision is still being considering that would extend it the eligibility period through the end of the year. We will let you know when something is signed in to law.

As always, please do not hesitate to contact your SML Account Team should you have any questions.