



SITZMANN ▪ MORRIS ▪ LAVIS

To: Clients of Sitzmann Morris & Lavis Inc.

Re: COBRA Subsidy Extended

Language to extend the COBRA subsidy was included in the Department of Defense Appropriations Act, H.R. 3326, which was passed in the House on December 16th and passed in the Senate on December 19th. It has gone to President Obama for signature.

Effective Immediately: The Amendments included in the Act take effect as if they were included in the original American Recovery and Reinvestment Act.

New Provisions:

- The period to qualify as an assistance eligible individual (AEI) has been extended from December 31, 2009 until February 28, 2010.
- The subsidy period has been extended from nine months to fifteen months.

Notice Requirements: There are two notice provisions under the Act.

General Notice: notice to inform individuals of the amendments made by the Act.

An individual who was an AEI at any time on or after October 31, 2009, or experienced a termination of employment qualifying event on or after October 31, 2009 but before the enactment of the Act, must receive this notice within 60 days after enactment of this Act. For example, an employee who was terminated on 12/7/09 must receive this notice.

Transition Notice: notice to inform individuals of the amendments made by the Act as well as their right to make a retroactive premium payment.

An AEI who did not timely pay their premium or paid the full premium must also receive a notice within 60 days of their transition period. For example, an AEI who exhausted their nine months of subsidy on 11/30/09 has a transition period beginning 12/1/09 and must receive a notice by 2/1/10.

For qualifying events occurring after the enactment of this Act send the Election Notice with the subsidy language provided earlier this year.

Transition Period: With respect to an AEI, any period of coverage if

- (i) such period begins before the date of enactment of this Act, and

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- (ii) the extension of the subsidy applies to such period.

Premiums: An AEI will be considered to have paid their premium on time if

- (i) the AEI was covered by COBRA in the period immediately preceding the subsidy transition period, and
- (ii) the AEI pays not later than the later of: 60 days from enactment of this Act OR 30 days after receipt of notice of the subsidy extension.

If an AEI has paid their COBRA premium in full during the transition period, the overage can be applied to future premiums as long as that amount is exhausted within 180 days. If the overage cannot be exhausted within 180 days then a refund must be paid within 60 days of receipt of the overage.

Next Steps: We anticipate model notices shortly. Once they have been published we will email them to our clients and post them on our website under “What’s New” at <http://www.smlinc.com/whatsnew>.

1. The Plan Sponsor in conjunction with the COBRA Administrator (if applicable) must identify all Assistance Eligible Individuals:
 - a. Whose subsidy began March 1, 2009 or later; and,
 - b. Whose nine (9) month subsidy has expired or will expire shortly.
2. The Plan Sponsor/COBRA Administrator, using the model notices, once provided, must prepare and mail:
 - a. The General Notice of the Extension Legislation to all Assistance Eligible Individuals as of October 31, 2009 or later; and,
 - b. The Transition Notice of the Extension Legislation to all Assistance Eligible Individuals who have exhausted the nine (9) month subsidy and are currently paying the full COBRA premium (102% of rate for active plan coverage) or who have ceased paying premiums upon exhaustion of the nine (9) month subsidy.

Please contact your SML Account Team if you have any questions.