

DOL Publishes New Model COBRA Notices

For more information regarding this or any other employment-related issue, please contact your Vorys attorney or a member of the Vorys Labor and Employment Group by calling 614.464.6400.

The Department of Labor (DOL) published new model COBRA notices on March 19, 2009. The notices explain the availability of the government's COBRA premium subsidy under the American Recovery and Reinvestment Act (ARRA).

Notice in Connection with Extended Election Periods

The DOL intends this notice for individuals who (a) were eligible for COBRA as a result of an involuntary termination of employment on or after September 1, 2008 through February 16, 2009 and (b) either did not elect COBRA or elected COBRA and subsequently dropped it. This notice includes both a COBRA election form and a Request for Treatment as an Assistance Eligible Individual (AEI) form. Employers have until April 18, 2009 (60 days after ARRA was signed into law) to send notices to this group.

General Notice (abbreviated version)

The DOL intends this notice for individuals who are currently on COBRA as a result of a qualifying event on or after September 1, 2008 through February 16, 2009. It lets them know about the subsidy and includes a Request for Treatment as an AEI form.

General Notice (full version)

The DOL intends this notice for all individuals whose COBRA qualifying

events occur on or after September 1, 2008 through December 31, 2009 and who are not in either of the first two groups. This notice includes both a COBRA election form and a Request for Treatment as an AEI form.

The DOL and IRS are presenting a free teleseminar on the COBRA premium subsidy on March 24, 2009, 11:30–1:30. The sign-up for the teleseminar, the DOL notices, and other DOL information on the subsidy can be found at <http://www.dol.gov/ebsa/COBRA.html>. (The DOL website includes a fourth model notice for use by insurers who are notifying employees of small employers of rights under state mini-COBRA laws. Small employers are, generally, employers with fewer than 20 employees.) IRS guidance on the subsidy can be found at <http://www.irs.gov/newsroom/article/0,,id=204505,00.html>.

The IRS is expected to publish guidance in the coming weeks on the definition of “involuntary termination” and other issues. Note that the DOL model COBRA forms assume that the employer will identify employees who have experienced an involuntary termination. In addition, the Request for Treatment as an AEI form requires employees to certify that their termination of employment was involuntary.

This client alert is for general information purposes and should not be regarded as legal advice.

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