



Short-Term COBRA Subsidy Extension Enacted

President Obama has just signed H.R. 4691 into law, which among other things, provides a one-month extension of eligibility for the COBRA subsidy enacted last year as part of the American Recovery and Reinvestment Act of 2009 (ARRA).

Background

ARRA provides a government paid subsidy of 65% of the COBRA cost for certain qualified beneficiaries whose loss of health coverage results from an involuntary termination of employment. (See our [February 24, 2009](#) and [March 26, 2009](#) For Your Information publications.) The subsidy was originally applicable for involuntary terminations through December 31, 2009 and was payable for a period of up to nine months. Late last year, eligibility for the subsidy was extended through February 28, 2010 and the maximum period was increased to fifteen months. (See our [December 23, 2009](#) For Your Information.)

COBRA Subsidy Extension

The “Temporary Extension Act of 2010” ([H.R. 4691](#)) now extends the period during which individuals may become eligible for the COBRA subsidy through March 31, 2010.

The law also expands eligibility to individuals who have a reduction in hours qualifying event (which is not eligible for the subsidy), and then have an involuntary termination of employment after the law’s enactment, i.e., March 2, 2010. If, after the reduction in hours, the individual either did not make a COBRA election or made an election and subsequently discontinued coverage, the involuntary termination must be treated as a qualifying event and the individual will have a new COBRA election period. However, the COBRA period is counted from the date of the reduction of hours. The new law also includes notice requirements relative to this expansion.

BUCK COMMENT. *Employees who lost coverage due to a reduction in hours prior to March 2 may be eligible for the subsidy if they terminate on or after March 2. Employers will need to establish procedures to identify individuals who become eligible for the subsidy due to this new provision.*

The new law also includes a provision that sanctions an employer’s determination of involuntary termination based on a “reasonable interpretation” of the relevant statutory provisions, as long as supporting documentation is maintained.

Next Steps

Congress is currently considering additional legislation that would extend eligibility for the subsidy for terminations of employment through the end of 2010. Because this legislation could be enacted soon, plan sponsors may not want to make any drastic changes to their COBRA administration at this time.

Conclusion

This short-term extension is not the best news for plan sponsors trying to administer the COBRA subsidy, particularly the new notice provisions. Buck's consultants are available to assist you in meeting your obligations under this new law, and under any future modifications.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.