



New COBRA Subsidy Provisions Signed into Law

On Monday, December 21, President Obama enacted legislation extending certain provisions of the American Recovery and Reinvestment Act of 2009 related to the COBRA continuation coverage subsidy.

The new provisions do the following:

- Change the end date of eligibility for the COBRA ARRA subsidy from December 31, 2009 to February 28, 2010 (a two-month extension);
- Expand the ARRA premium subsidy to 15 months (an increase from the nine-month period under the original provisions);
- Allow for a 60-day period for the retroactive payment of premiums for assistance eligible individuals ("AEIs") (i.e., individuals who were entitled to the subsidy) whose subsidy period expired on November 30 and who failed to pay their premium for December coverage. The period will commence the day the provision is signed into law by the president, or, if later, 30 days after provision of the special notice (described below). The same refund/credit rules under the original bill will apply to any assistance eligible individual ("AEI") whose subsidy expired in November and who has since paid the full COBRA premium;
- Require a special notice describing the new subsidy provisions to all AEIs who are on COBRA on or after November 1, 2009 or whose qualifying event is an "involuntary termination" of employment occurring on or after November 1, 2009;
- Conditions eligibility for the COBRA subsidy on only one factor: a qualifying event that is an "involuntary termination" of employment occurring on or before the new February 28, 2010 sunset date. The previous version of the subsidy also took into account when the COBRA coverage period actually began. This means that employees who are involuntarily terminated before February 28, 2010 but still receive coverage subsidized by employers that defers the COBRA start date to a date later than February 28, 2010 will still be able to receive the subsidy.

AmeriFlex is working diligently to re-program its systems in order to offer a solution to Plan Administrators who will need to accommodate these new requirements. Once we consult with our legal experts and receive appropriate guidance from enforcing agencies such as the Department of Labor, the Department of Health and Human Services, and the Internal Revenue Service, we will provide additional updates and instructions.