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Employee Benefits

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Labor & Employment

Law Alert

This alert is published by our Employee Benefits and Labor and Employment practices. Please feel free to contact any of our attorneys for more information.

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COBRA Subsidy Extended to May 31, 2010

For the third time now Congress has extended the COBRA premium assistance program which was introduced early last year with the American Recovery and Reinvestment Act of 2009. The program had previously expired on March 31, but the Continuing Extension Act of 2010 (CEA), extends the COBRA Subsidy Program to May 31, 2010. Employers may need to issue supplemental notices by June 14, 2010.

As originally established, the temporary COBRA subsidy program provides for premium assistance to individuals and their dependents who lose coverage under their group health plan because of an involuntary termination from employment (other than gross misconduct) during the period from September 1, 2008, through December 31, 2009. The amount of the subsidy is 65 percent of the COBRA continuation premium, subject to a phase out for high income individuals.

Although initially available for a maximum period of nine months, it has been increased to 15 months. Congress extended the program to cover involuntary terminations through February 2010, and again extended it through March 2010. Earlier this year the program was expanded to include involuntary terminations from March 2 through March 31, 2010, that followed a loss of coverage due to reduction of hours between September 1, 2008, and March 1, 2010.

The latest extension expands the subsidy eligibility period for an additional two months to cover involuntary terminations as late as May 31, 2010. It also changes the way involuntary terminations following a reduction of hours are treated. Under the CEA, a loss of coverage due to reduction of hours may occur at any time between September 1, 2008, and May 31, 2010, in order for a later involuntary termination to qualify for the subsidy. Because the CEA was adopted after the last eligibility period for the subsidy program had expired, the CEA requires plans to provide individuals who are involuntarily terminated after March 31, 2010, and before April 15, 2010, with an additional notice providing for a 60-day COBRA election period during which they may apply for the subsidy. The notices must be provided no later than June 14 and must inform such individuals regarding the extension through May 31 and of their right to retroactively elect COBRA coverage and apply for the subsidy.

Additional extensions are possible. At least one bill is working its way through Congress that would potentially extend the subsidy to December 31, 2010. For more information about the extensions and expansion of the COBRA Subsidy Program see our previously issued Alerts at www.pullcom.com.