

# KEEPING CURRENT . . . on COBRA & HIPAA<sup>®</sup>

## ARRA COBRA SUBSIDY EXTENDED

On December 1, 2009, the ARRA COBRA subsidy expired for a large group of Assistance Eligible Individuals. However, amendments made by section 1010 of the Defense Appropriations Act, 2010 (H.R. 3326), includes an extension of the COBRA Subsidy. The bill passed the House on December 16, 2009 and the Senate on December 18, 2009; President Obama is expected to sign the bill quickly.

H.R. 3326 extends the COBRA subsidy in two ways:

1. It changes the last date for eligibility from December 31, 2009 to February 28, 2010; and,
2. Extends length of the subsidy from nine months to 15 months.

COBRA Administrators are required within 60 days of enactment to provide notice of the extension to assistance eligible individuals (AEIs). QBs who were AEIs at any time on or after October 31, 2009 have 60 days to pay the premium retroactively (or if later, 30 days from date of notice provided by the administrator).

The sooner you provide Assistance Eligible Individuals notice of this extension, the easier it will be to transition through this extension. MEHRINGER & ASSOCIATES is prepared to provide you with any assistance you may need through this transition.

*Following is Amendment 1010, in its entirety.*

Sec. 1010. (a) Extension of Eligibility Period- Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended by striking ‘December 31, 2009’ and inserting ‘February 28, 2010’.

(b) Extension of Maximum Duration of Assistance- Subsection (a)(2)(A)(ii)(I) of such section is amended by striking ‘9 months’ and inserting ‘15 months’.

(c) Rules Related to 2009 Extension- Subsection (a) of such section is further amended by adding at the end the following:

‘(16) RULES RELATED TO 2009 EXTENSION-

‘(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE- In the case of any premium for a period of coverage during an assistance eligible individual’s transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if--

‘(I) such individual was covered under the COBRA continuation coverage to which such premium relates for the period of coverage immediately preceding such transition period, and

‘(ii) such individual pays, not later than 60 days after the date of the enactment of this paragraph (or, if later, 30 days after the date of provision of the notification required under subparagraph (D)(ii)), the amount of such premium, after the application of paragraph (1)(A).

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‘(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY- In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual’s transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

‘© TRANSITION PERIOD-

‘(I) IN GENERAL- For purposes of this paragraph, the term ‘transition period’ means, with respect to any assistance eligible individual, any period of coverage if--

‘(I) such period begins before the date of the enactment of this paragraph, and

‘(II) paragraph (1)(A) applies to such period by reason of the amendment made by section 1010(b) of the Department of Defense Appropriations Act, 2010.

‘(ii) CONSTRUCTION- Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

‘(D) NOTIFICATION-

‘(I) IN GENERAL- In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to COBRA continuation coverage on or after such date, the administrator of the group health plan (or other entity) involved shall provide an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, within 60 days after the date of the enactment of such Act or, in the case of a qualifying event occurring after such date of enactment, consistent with the timing of notifications under paragraph (7)(A).

‘(ii) TO INDIVIDUALS WHO LOST ASSISTANCE- In the case of an assistance eligible individual described in subparagraph (A)(i) who did not timely pay the premium for any period of coverage during such individual’s transition period or paid the premium for such period without regard to paragraph (1)(A), the administrator of the group health plan (or other entity) involved shall provide to such individual, within the first 60 days of such individual’s transition period, an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, including information on the ability under subparagraph (A) to make retroactive premium payments with respect to the transition period of the individual in order to maintain COBRA continuation coverage.

‘(iii) APPLICATION OF RULES- Rules similar to the rules of paragraph (7) shall apply with respect to notifications under this subparagraph.’.

(d) Clarification That Eligibility and Notice Is Based on Timing of Qualifying Event- Subsection (a) of such section is amended--

(1) in paragraph (3)(A)--

(A) by striking ‘at any time’ and inserting ‘such qualified beneficiary is eligible for COBRA continuation coverage related to a qualifying event occurring’; and

(B) by striking ‘, such qualified beneficiary is eligible for COBRA continuation coverage’; and

(2) in paragraph (7)(A), by striking ‘become entitled to elect COBRA continuation coverage’ and inserting ‘have a qualifying event relating to COBRA continuation coverage’.

(e) Effective Date- The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 to which they relate.