

# Labor & Employment Law Alert

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*Practical and preventive information for managing  
your workplace*

## *Department of Labor Releases Model COBRA Notices Under The American Recovery and Reinvestment Act of 2009*

On March 19, 2009, the Department of Labor (DOL) released model notices to help plans and individuals comply with the COBRA premium reduction requirements of the American Recovery and Reinvestment Act of 2009 (ARRA). The model notices are individually designed for a particular group of qualified beneficiaries and contain information to help satisfy the requirements of ARRA. The notices released by the DOL specifically apply to employers and group health plans and include the following three notices (1) a Full Version General Notice, (2) an Abbreviated Version General Notice, and (3) a Notice in Connection with Extended Election Periods. For your convenience, the model notices have been linked to this Alert. Below is a brief summary of each notice and the DOL's guidance on the group of individuals the notice is to be provided.

### **General Notice – Full Version**

Plans subject to the Federal COBRA provisions must send the General Notice to all qualified beneficiaries (not just covered employees) who experienced a qualifying event at any time from September 1, 2008, through December 31, 2009, regardless of the type of qualifying event. [This full](#)

[version](#) includes information on the premium reduction as well as information required in a COBRA election notice.

### **General Notice – Abbreviated Version**

[The abbreviated version](#) of the General Notice includes the same information as the full version regarding the availability of the premium reduction and other rights under ARRA, but does not include the COBRA coverage election information found in a general COBRA continuation coverage election notice. It may be sent in lieu of the full version to individuals and qualified beneficiaries who experienced a qualifying event during, on, or after September 1, 2008, have already elected COBRA coverage, and still have it. This Notice must be provided by April 18, 2009.

### **Notice in Connection with Extended Election Periods**

Plans subject to the Federal COBRA provisions must send the [Notice in Connection with Extended Election Periods](#) to any “assistance eligible individual” (or any individual who would be an “assistance eligible individual” if a COBRA continuation election were in effect) who:

1. Had a qualifying event at any time from September 1, 2008, through February 16, 2009; and
2. Either did not elect COBRA continuation coverage, or who elected it but subsequently discontinued COBRA.

An "assistance-eligible individual" or qualified beneficiary is generally an individual who became eligible for COBRA continuation coverage on account of a covered employee's involuntary termination of employment during the period beginning September 1, 2008, and ending December 31, 2009. The Notice also includes information on ARRA's additional election opportunity, as well as premium reduction information. This Notice must be provided by April 18, 2009.

### **Background on the COBRA Premium Subsidy Under ARRA**

On February 17, 2009, the American Relief and Reinvestment Act of 2009 was signed into law. The ARRA provides federal assistance for payment of COBRA premiums to employees and covered family members with adjusted gross incomes below a maximum threshold who lost or will lose coverage due to an involuntary termination of employment from September 1, 2008, through December 31, 2009.

The ARRA provides for a subsidy of sixty-five percent (65%) of the COBRA continuation coverage premiums for assistance-eligible individuals for a maximum of nine (9) months, so that an eligible individual will only have to pay thirty-five percent (35%) of the COBRA premium in order to get coverage. Assistance-eligible individuals generally are those who are qualified beneficiaries on account of a covered employee's involuntary termination of employment between September 1, 2008, and December 31, 2009.

The ARRA requires employers to modify COBRA election notices or provide the separate, supplemental notices provided above to all individuals who became entitled to COBRA continuation coverage during the period beginning on September 1, 2008, and ending on December 31, 2009. The employer will need to determine which of the three Notices above will need to be provided to the individual, based upon the individual's particular situation.

If you have any questions or comments regarding the ARRA and the COBRA rules and notices associated therewith, contact a benefits attorney.

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