

## *2010 Continuing Extension Act: COBRA Premium Subsidy*

### **Eligibility Requirements**

Designed to help relieve the financial burden of health benefits for the unemployed and their families, the new subsidy entitles qualifying, laid-off workers to a 65% health insurance premium subsidy for up to 15 months. Although your company is not ultimately responsible for paying the subsidy, it is responsible for administering the COBRA coverage. Companies covered by a COBRA-type state law must comply with this subsidy, even if the company employs fewer than 20 people.

Here's how it works:

- Employees involuntarily terminated between September 1, 2008, and May 31, 2010, may receive the subsidy.
- Employees who lost health benefits because of a reduction in hours that occurred after August 31, 2008, and who were involuntarily terminated between March 2, 2010, and May 31, 2010, may be eligible for the subsidy.
- Terminated employees pay only 35% of their health insurance premium to your company as the plan sponsor. The federal government will reimburse your company for the remainder of the premium by applying a credit against your company's payroll taxes.
- Individuals whose annual income exceeds \$125,000 (or \$250,000, if married and filing jointly) may have to repay all or part of the premium reduction through an increase in their income tax liability for the year.
- If an employee declined to take COBRA at the time of termination, elected COBRA and later discontinued it, or became eligible for the subsidy through legislation extending the premium subsidy, you must notify that employee of the subsidy and provide him/her with another opportunity to elect COBRA coverage and pay a reduced premium.
- Premium reductions apply only to coverage periods beginning on or after February 17, 2009. Reimbursements cannot be made for coverage initiated before then.

### **Employer Obligations**

Changes to the temporary COBRA premium subsidy rules may be of benefit to unemployed workers, but for businesses the story can be quite different.

Enforcement provisions added to the 65% subsidy of COBRA premiums for workers laid off before June 1, 2010 are a compelling reason to make certain that your company meets its responsibilities in administering COBRA coverage.

Why? Because if your company has laid off employees, your company must be sure that it is providing the mandated COBRA notices in a timely fashion and to all eligible former employees affected. Your company must timely notify COBRA-eligible individuals of the subsidy, changes to the subsidy, and how they affect COBRA and COBRA premium subsidy eligibility.

Your company may face a civil action and penalties of up to \$110 per day per occurrence if it fails to comply within 10 days with a federal agency's determination related to the COBRA premium subsidy.

Even if your company is not covered by federal COBRA because it has fewer than 20 employees, your company must administer the federal COBRA subsidy if it is covered by a COBRA-type state law.

Under the extended subsidy program, the federal government will help pay for the COBRA benefit of any individual who is involuntarily terminated between September 1, 2008, and May 31, 2010, and whose income in the year of the subsidy does not exceed certain limits. Also, employees who lost coverage because of a reduction in hours that occurred after August 31, 2008, and who were involuntarily terminated by May 31, 2010, may be eligible for the subsidy if certain conditions are met.

Covered individuals pay just 35% of the premium to the company as the plan sponsor. The company will be reimbursed by the federal government for the remainder of the premium by a credit against the company's payroll taxes.

We welcome the opportunity to meet with you to discuss these COBRA changes and other compensation legislation that can have an impact on you and your company.