



Immediate Action Required: April 18, 2009 Deadline for COBRA Premium Assistance Notice

Employment, Labor & Benefits Practice Group

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PRACTICE AREAS

Employee Benefits

Health Care

The 2009 American Recovery and Reinvestment Act requires a temporary reduction of COBRA premiums for all group health plans that are subject to COBRA (including major medical, prescription drug, dental and vision plans, but excluding health flexible spending accounts). If the COBRA qualified beneficiary is an "assistance eligible individual ("AEI")," there will be a 65% reduction in the COBRA premiums for up to nine months (or the date COBRA coverage ends, if earlier). An "assistance eligible individual" is a qualified beneficiary who:

- Becomes eligible for COBRA coverage at any time during the period beginning September 1, 2008 and ending on December 31, 2009 and:
 - elected coverage during the original COBRA election period; or
 - elects COBRA within 60 days of receiving the additional COBRA election notice described below; and
- The COBRA qualifying event is the employee's involuntary termination of employment during the period beginning September 1, 2008 to December 31, 2009.

The premium reduction is available for periods of coverage that begin on or after February 17, 2009, but no later than March 18, 2009. This period will begin March 1, 2009 for most health plans. There is no premium reduction for periods of coverage that started before February 17, 2009. Any overpayment by the AEI for payments made during the reduction period may be credited towards the AEI's next COBRA payment.

If the qualifying event was an involuntary termination of employment that occurred on or after September 1, 2008 and before February 17, 2009, and the AEI either did not elect COBRA during the original COBRA election period, or elected COBRA and then dropped the coverage, the AEI may have the right to elect COBRA now at the reduced premium rate. The AEI must therefore receive an additional



COBRA election notice from the Plan describing how to apply for this coverage. The DOL has published a model notice that may be used to inform such AEIs of the COBRA premium assistance. The Plan Administrator must distribute this notice to the AEIs by **April 18, 2009**.

Please contact your employee benefits counsel at Foster Swift for additional information.
