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COBRA SUBSIDY EXTENSION

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The recently enacted Department of Defense Appropriations Act (DDAA) modifies certain provisions of the American Recovery and Reinvestment Act (ARRA) relating to the COBRA Subsidy.

The ARRA established the COBRA Subsidy which required eligible individuals to pay only 35 percent of their COBRA premiums. The remaining 65 percent was reimbursed to the coverage provider through a tax credit. To be eligible, individuals must be involuntarily terminated from their employment and timely apply for the benefit. Those individuals who may be covered by Medicare or their spouse's insurance are not eligible.

The DDAA amended the maximum duration of COBRA Subsidy assistance from nine months to 15 months. Further, the eligibility period was amended, changing the deadline of eligibility from December 31, 2009, to February 28, 2010. The amendments to the COBRA Subsidy are retroactive to the effective date of the ARRA.

The DDAA does not require modification of the notices provided by employers that are required by ARRA, beyond modifying the eligibility dates. Plan administrators must provide information about the premium reduction to all individuals who have COBRA qualifying events from September 1, 2008 through February 28, 2010.

Plan administrators must also provide notice about the changes made to the premium reduction provisions of ARRA by the DDAA to individuals who have already been provided a COBRA election notice. Individuals who are eligible for the COBRA Subsidy must be provided this notice by February 17, 2010, and individuals who experience a termination of employment on or after October 31, 2009 and lose health coverage must be provided this notice within the normal timeframes for providing continuation coverage notices.

Because of the retroactivity of the law, the DDAA also requires that notice be provided to those individuals who are in a "transition period" within 60 days after the enactment of the DDAA. A person in a "transition period" is one whose nine month COBRA subsidy expired prior to December 19, 2009. These individuals are entitled to an additional 6 months of reduced premiums per the COBRA subsidy.

Those individuals who lost their subsidy and paid the full 100 percent premium in December 2009 will most likely be contacting their plan administrator or employer sponsoring the plan to discuss a credit for future months of coverage or a reimbursement of the overpayment. The notice provided by the Plan Administrator regarding changes to the COBRA Subsidy should discuss this. Employers should be prepared for an influx of inquiries into COBRA Subsidy related issues. Please do not hesitate to contact your attorney at Scariano, Himes and Petrarca, Chtd., with any questions that you

may have regarding the COBRA amendments.

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