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American Recovery and Reinvestment Act of 2009 (ARRA) and it's effects on COBRA

Cobra Subsidy Alert

On February 17, President Obama signed the American Recovery and Reinvestment Act (ARRA) which has significant impact on existing COBRA rules and regulations

How Much Is The Subsidy?

The ARRA legislation provides for a government Subsidy of 65% of COBRA premiums for Assistance Eligible Individuals (AEIs)

Who is Eligible for the Subsidy?

Assistance Eligible Individuals include anyone who has or will experience an involuntary termination between September 1, 2008 and December 31, 2009, who is not eligible for other group health coverage or Medicare, and the covered dependents of such individuals

Not Eligible for the Subsidy

Qualified Beneficiaries who experience a loss of coverage resulting from any of the following events will not be considered

Assistance Eligible Individuals:

- Divorce
- Death of the Employee
- Loss of Dependent Status
- Termination for "Gross Misconduct"

Income Thresholds

- Singles making 145K+ per year are ineligible (phased out over \$125K)
- Couples making 290K+ per year are ineligible (phased out over \$250K)
- Any person who experiences an involuntary termination and elects COBRA, and then makes over the 125K per year will be required to pay back any Subsidy they may have received

What is not Covered?

The Subsidy will not cover contributions to Flexible Spending Accounts (FSAs) but Health Reimbursement Arrangements (HRAs) are covered under the law

What is the Subsidy Period?

The Subsidy is available to AEIs for up to nine months beginning March 1, 2009. The Subsidy ends when the AEI becomes eligible for coverage under another group health plan (including any plan available through the spouse's employer) or Medicare

Failure to Notify

An Assistance Eligible Individual's failure to notify their COBRA administrator of the cessation of eligibility for the Subsidy may subject him or her to a penalty of 110% of the amount of the subsidy.

Effect on COBRA Period

The Subsidy period does not extend the period of COBRA coverage that would otherwise apply to the qualified beneficiary from the original qualifying event date

Gap in Coverage

Any gap in coverage beginning with the qualifying event date and ending on the effective date of the COBRA subsidy period will not be counted as a break in coverage for the purposes of the 63-day rule under HIPAA's portability rules

Severance Arrangements

If the employer is paying a portion of the AEI's COBRA premium under a severance arrangement, the AEI will only be required to pay 35% of the premium for which they are responsible

Overpayments

If full COBRA payments are received from an AEI between February 17, 2009 and May 31, 2009, such overpayments will be applied to future coverage periods or returned to the AEI

How Will Employers be Reimbursed?

Employers will pay the full premium to the insurance carrier and be reimbursed by the government in the form of a reduction in their Federal payroll taxes. If the 65% Subsidy should be greater than their tax liability, they will be reimbursed directly by the government for the difference

Notices

The employer must send notices to all individuals who terminated employment during the applicable time period (not just to individuals who were terminated involuntarily), no later than April 17, 2009

Special Election Period

The notice must offer the Subsidy to all AElS currently on COBRA and offer a new 60 day COBRA election period to all AElS who did not elect COBRA coverage or who elected coverage and have since discontinued such coverage

Model Notice

The U.S. Department of Labor, in conjunction with the Departments of Treasury and Health and Human Services, is expected to provide the model notice on or before March 19, 2009.

Determination of Eligibility

Employers must identify which terminated employees qualify for the Subsidy due to “involuntary termination”. If it is determined that an individual is not eligible, the individual has the right to appeal. The DOL will review the appeal and make the final determination

What Must Employers Do Now?

- Arrange to have the new Election Notice sent by April 17, 2009 to EVERYONE with a Qualifying Event since September 1, 2008
- Identify which individuals were Involuntarily Terminated
- Be prepared to adjust payroll procedures to recoup the cost of the Subsidy on their form 941

Questions?

If you have any questions,
please contact us at:
cobrasupport@amben.com

or call

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