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COBRA PREMIUM SUBSIDY EXTENDED

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On December 19, 2009, the President signed into law the Department of Defense Appropriations Act of 2010 (the "Act") which, in addition to providing FY2010 appropriations for the Department of Defense, extends and enhances the Federal Government's COBRA premium subsidy program previously enacted by the American Recovery and Reinvestment Act of 2009 ("ARRA").

COBRA Requirements

The Act contains two important features concerning COBRA: (1) it extends the eligibility period for the COBRA premium subsidy for an additional two months - through Feb. 28, 2010; and (2) it expands the maximum period for receiving the subsidy from 9 to 15 months.

The Act also contains special transition rules for individuals who had COBRA coverage that began before December 19, 2009, but whose entitlement to the COBRA subsidy under ARRA already expired. These "transition individuals" might have a period of coverage during

which either no COBRA premium payment was made or payment was made at the full unsubsidized rate.

Under the Act, a transition individual who stopped making COBRA premium payments must be permitted to reinstate his or her coverage retroactively by making-up the missed premiums (at the subsidized rate). Retroactive payments must be made on or before February 17, 2010 or, if later, within 30 days following the notice described below. A transition individual who paid the full COBRA premium must receive a refund or a credit for amounts paid in excess of the subsidized rate.

New Notice Requirements

Administrators of group health plans are required to notify assistance eligible individuals who experienced a COBRA qualifying event due to termination of employment on or after October 31, 2009 of the new requirements of the Act. Those notices are required to be furnished within 60 days after December 19, 2009, or in the case of a qualifying event that occurs after December 19, 2009, within the usual time period for providing COBRA notices. Administrators

of group health plans are also required to notify transition individuals (generally within 60 days after December 19, 2009) of their right to make retroactive premium payments in order to maintain COBRA continuation coverage or to receive a refund or a credit for amounts paid in excess of the subsidized rate.

It is expected that the Department of Labor will publish guidance and/or model notices about the new COBRA requirements in the coming weeks.

If you have any questions related to the COBRA premium subsidy, please contact:

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