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## More About DOL's New Model COBRA Notices

On January 13, 2010, DOL posted Notices aimed at complying with the COBRA Subsidy Extension: <http://www.dol.gov/ebsa/COBRAmode notice.html>. It appears DOL's link to the notices works intermittently. For your convenience, we have posted the DOL Model Notices on our website, and you can view them here: [http://www.lehrmiddlebrooks.com/documents/New\\_General\\_Notice.doc](http://www.lehrmiddlebrooks.com/documents/New_General_Notice.doc) and <http://www.lehrmiddlebrooks.com/documents/NewExtensionNotice.doc>.

Note that DOL also published an Updated Alternative Notice for any of you that provide group health insurance coverage in a state where individuals may become eligible for continuation coverage under a State law. That notice, of course, will need to be modified as necessary to conform with the applicable state's law.

Plans subject to the Federal COBRA provisions must provide the updated **General Notice** to all qualified beneficiaries (not just covered employees) who experienced a qualifying event at any time from September 1, 2008 through February 28, 2010, regardless of the type of qualifying event, and who have not yet been provided an election notice. This model notice includes updated information on the premium reduction as well as the typical information required in a COBRA election notice. Although at first glance this might appear to require sending out the new Updated Notice even to those qualified beneficiaries who experienced qualifying events many months ago, the phrase "and who have not yet been provided an election notice" should limit the number of folks you have to get this one sent to.

Do note: Individuals who experienced a qualifying event (that was a termination of employment) in December 2009 but who were not eligible for COBRA coverage until January 2010 were likely not provided proper notice. These individuals should get the updated General Notice AND the full 60 days from the date the updated notice is provided to make a COBRA election.

The new **Premium Assistance Extension Notice** will have to be sent to certain individuals who have already been provided a COBRA election notice that did not include information regarding ARRA, as amended. DOL's model Premium Assistance Extension Notice includes information about the changes made to the premium reduction provisions of ARRA by the 2010 DOD Act.



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The agency noted that these groups of individuals would need this notice within the following time frames:

- Individuals who were "assistance eligible individuals" as of October 31, 2009 (unless they are in a transition period - see below), and individuals who experienced a termination of employment on or after October 31, 2009 and lost health coverage (unless they were already provided a timely, updated General Notice) must be provided notice of the changes made to the premium reduction provisions of ARRA by the 2010 DOD Act by February 17, 2010;
- Individuals who are in a "transition period" must be provided this notice within 60 days of the first day of the transition period. Remember that the "transition period" is the period that begins immediately after the end of the maximum number of months (generally nine) of premium reduction available under ARRA prior to this most recent amendment. An individual is in a transition period only if the premium reduction provisions would continue to apply as a result of the extension from nine to 15 months and they otherwise remain eligible for the premium reduction.

DOL noted that, to some extent, there would be overlap in all these different groups and in some cases an individual could be entitled to multiple notices. Here's your safe-haven for that confusing scenario: "Providing the Premium Assistance Extension Notice by the earliest date required will satisfy the notice requirement(s)."

We will continue to keep you informed of any more changes. If you have any questions about the COBRA Subsidy Extension, please feel free to contact Donna Brooks at (205) 226-7120 ([dbrooks@lehrmiddlebrooks.com](mailto:dbrooks@lehrmiddlebrooks.com)) or Mike Thompson at (205) 323-9278 ([mthompson@lehrmiddlebrooks.com](mailto:mthompson@lehrmiddlebrooks.com)).