

March 19, 2009

DOL Issues New Model COBRA Notices

Today, the Department of Labor issued model COBRA notices that incorporate the new COBRA requirements of the American Recovery and Reinvestment Act of 2009 ("Recovery Act"). Companies have until April 18, 2009 to furnish new COBRA notices. The model COBRA notices and information on who to send them to are available on the [DOL's website](#).

New COBRA Requirements

As we noted in our [client alert](#) on February 24, 2009, the Recovery Act imposes new COBRA requirements on group health plan sponsors and their insurers and administrators.

The new COBRA requirements obligate companies to:

- temporarily subsidize COBRA premiums for certain employees;
- offer "second chance" COBRA elections to certain employees who have left employment;
- update COBRA and HIPAA documents;
- notify plan participants of their new COBRA rights; and
- file new reports with the government.

New Model COBRA Notices

The DOL has issued four model COBRA notices. Each model notice is designed for a particular group of qualified beneficiaries entitled to COBRA. The DOL describes the four notices generally as follows:

- [General Notice](#) (Full Version). Plans subject to COBRA must send the General Notice to **all** qualified beneficiaries (not just covered employees) who experience a qualifying event at any time from September 1, 2008 through December 31, 2009, regardless of the qualifying event. This full version includes information on the premium subsidy as well as information required in a COBRA election notice.
- [General Notice](#) (Abbreviated Version). The abbreviated version of the General Notice includes the same information as the full version regarding the availability of the premium subsidy and other rights under the Recovery Act, but does not include the COBRA coverage election information. The abbreviated version may be sent instead of the full version to individuals who experienced a qualifying event on or after September 1, 2008, and have already elected and still have COBRA coverage.
- [Alternative Notice](#). Insurance companies that provide group health insurance coverage must send the Alternative Notice to participants who became eligible for continuation coverage under applicable state law. Continuation coverage requirements vary among states. Insurance companies should modify this model notice as necessary to conform it to the applicable state law.

- [Notice in Connection with Extended Election Periods](#). Plans subject to COBRA must send the Notice in Connection with Extended Election Periods to any assistance eligible individual (or any individual who would be an assistance eligible individual if a COBRA continuation election were in effect) who:
 - Had a qualifying event at any time from September 1, 2008 through February 16, 2009; and
 - Either did not elect COBRA continuation coverage or who elected COBRA but subsequently discontinued COBRA.

This notice includes information on additional election opportunities under the Recovery Act, as well as premium subsidy information.

Companies are not required to use the model COBRA notices and may instead develop their own COBRA notices or revise the model notices to reflect the specific provisions of the company's group health plans.

Other Guidance

The Internal Revenue Service has issued general [guidance](#) on the new COBRA requirements, and specific [guidance](#) on administration and eligibility, form preparation, reporting and documentation, and taxability and recapture related to the new COBRA requirements.

The DOL has issued some updated general [guidance](#) on the new COBRA requirements.

More detailed guidance on the new COBRA requirements is expected to be issued shortly.

Assistance With COBRA Compliance

We are happy to assist you with complying with the new COBRA requirements.

Our client alerts are for general informational purposes and should not be regarded as legal advice. If you would like additional information or have any questions, please contact:

Authors

Marjorie M. Glover
+1 (212) 408-1016
mglover@chadbourne.com

Rachel M. Kurth
+1 (212) 408-5185
rkurth@chadbourne.com

Contact for More Information

William G. Cavanagh
+1 (212) 408-5388
wcavanagh@chadbourne.com

David Gallai
+1 (212) 408-1033
dgallai@chadbourne.com

Marjorie M. Glover
+1 (212) 408-1016
mglover@chadbourne.com

Lauren D. Kelly
+1 (212) 408-5520
lkelly@chadbourne.com

Rachel M. Kurth
+1 (212) 408-5185
rkurth@chadbourne.com

Edward P. Smith
+1 (212) 408-5371
esmith@chadbourne.com

www.chadbourne.com

New York Washington Los Angeles Houston Mexico City
London (a multinational partnership) Moscow St. Petersburg
Warsaw Kyiv Almaty Dubai Beijing

CHADBOURNE
& PARKE LLP