Miller LAW GROUP

Employment Law Alert

February 2, 2010

COBRA Subsidy Extended; New Notices Required

President Obama recently signed legislation extending the existing COBRA premium subsidy. The subsidy was created early last year by the American Recovery and Reinvestment Act of 2009 (ARRA). Under ARRA, "assistance eligible individuals" are required to pay only 35 percent of the COBRA premium. For background information, see our prior COBRA subsidy Employment Law Alert.

Under the new legislation, assistance eligible individuals can receive the COBRA premium reduction for up to 15 months, rather than the nine months under the original ARRA COBRA subsidy provisions. In addition, while ARRA made the subsidy available to individuals who were involuntarily terminated between September 1, 2008 and December 31, 2009, the new measure extends the subsidy to involuntary terminations occurring through February 28, 2010.

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The new law also clarifies that an employee's or beneficiary's eligibility for COBRA need not occur on or before February 28, 2010 in order for the individual to be eligible for the subsidy. Instead, as long as the involuntary termination occurs on or before February 28, 2010, the individual will be eligible for the subsidy. For example, an individual who is involuntarily terminated on February 28, 2010, and becomes COBRA-eligible on March 1, 2010, would still be eligible for the subsidy.

The new measure requires that anyone who experiences any qualifying event on or after December 19, 2009 receive an updated COBRA General Notice with the extension information. Also, a Premium Assistance Extension Notice must be provided by February 17, 2010 to individuals who were assistance eligible individuals as of October 31, 2009 and to individuals who are terminated from employment on or after October 31, 2009 and lose health coverage (unless they already received the updated General Notice). The extension notice is also required for individuals who are in a "transition period" because they reached the end of the original nine months of premium reduction before this new extension. The notice must go out within 60 days of the first day of the transition period, which begins immediately after the nine months ends.

Model notices and information regarding the timing of notices is on the U.S. Department of Labor's website.

For over a decade, Miller Law Group has devoted its practice exclusively to representing business in all aspects of California employment law and related litigation. If you have questions about these new developments or your workplace obligations, please contact Michele Ballard Miller (mbm@millerlawgroup.com) or Carolyn Rashby (cr@millerlawgroup.com), or call 415-464-4300.

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