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BULLETIN

Date: 3/12/09

Re: COBRA Continuation Coverage and Subsidy

COBRA requires that health care continuation coverage be made available for a limited period of time to individuals involuntarily terminated from employment. When the qualifying event is the covered employee's termination of employment (for reasons other than gross misconduct) or reduction in hours of work, qualified beneficiaries must be provided a maximum of 18 months continuation coverage.

Under COBRA, a group health plan may terminate an individual's continuation coverage earlier than the end of the maximum period for any of the following reasons:

- Premiums are not paid on a timely basis;
- The employer ceases to maintain any group health plan;
- After the COBRA election, coverage is obtained with another employer group health plan that does not contain any exclusion or limitation with respect to any pre-existing condition of such beneficiary.[1]
- After the COBRA election, a beneficiary becomes entitled to Medicare benefits.
- A qualified beneficiary engages in conduct that would justify the plan in terminating coverage of a similarly situated participant or beneficiary not receiving continuation coverage (such as fraud).

Traditionally under COBRA, involuntarily terminated employees were required to pay the full premium (employee and employer) to maintain their health care coverage.

Under the recently passed American Recovery and Reinvestment Act of 2009 (the Act), involuntarily terminated employees will be required to pay only 35% of the total health care premium to receive COBRA coverage. The former employer will pay the other 65% and receive a credit equal to that amount on their payroll taxes from the federal government.

The eligible employee is entitled to receive the subsidy until the earlier of:

[1] The Joint Explanatory Statement of the Committee of the Conference on the COBRA Premium Reduction Provision, pg. 3 states: "Mere eligibility for another group health plan or Medicare benefits is not sufficient to terminate the minimum coverage period. Instead the qualified beneficiary must be actually covered by the other group health plan or enrolled in Medicare." See www.dol.gove/ebsa/COBRA

1. Nine months after the first day the subsidy is available to the individual;
2. The maximum period of continuation coverage required under COBRA expires; or,
3. The first date the individual is **eligible** under **any other group health plan**... or the individual is eligible for Medicare.

Thus, once an individual accepts new employment and becomes eligible for health insurance under the new employer's health care plan, their former employer and the federal government will no longer be responsible for the 65% subsidy.

Lastly, the Act provides that an individual receiving the COBRA subsidy must notify the plan providing continuation coverage of the individual's eligibility for coverage under another group health plan or Medicare. The penalty for failure to provide notification is 110% of the reduced premium.