



MARCH 2009

RE: ARRA Update

Dear Valued Client:

As mentioned in our previous memo, the recently signed stimulus package included language regarding health care regulations for laid-off workers. Under The American Recovery and Reinvestment Act of 2009 (ARRA) "**assistance eligible individuals**" are given the opportunity to reduce their COBRA (20 or more employees) and State Continuation (2-19 employees) coverage premiums.

ARRA mandates that Plan Sponsors (herein called the Employer) notify certain current and former participants and beneficiaries about the premium reduction. The Department of Labor created model notices to help Employers comply with these requirements which may be accessed via their website: <http://www.dol.gov/ebsa/COBRAmodelnotice.html>. Each model notice is designed for a particular group of qualified beneficiaries and contains information to help satisfy ARRA's notice provisions.

General Notice (Full version)

Employers subject to the Federal **COBRA** provisions must send the General Notice to all qualified beneficiaries, not just covered employees, who experienced a qualifying event at any time from 09/01/2008 through 12/31/2009, regardless of the type of qualifying event. This full version includes information on the premium reduction 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 reduction and other rights under ARRA, but does not include the **COBRA** coverage election information. It may be sent in lieu of the full version to individuals who experienced a qualifying event during on or after 09/01/2008, have already elected **COBRA** coverage, and still have it.

Alternative Notice (For groups not subject to COBRA i.e., State Continuation)

Employers that provide group health insurance coverage must send the Alternative Notice to persons who became eligible for continuation coverage under a **State** law. Continuation coverage requirements vary among States, and Employers should modify this model notice as necessary to conform it to the applicable **State** law. Employers may also find the model Alternative Notice or the abbreviated model General Notice appropriate for use in certain situations.

Notice in Connection with Extended Election Periods

Plans subject to the Federal **COBRA** provisions 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:

1. Had a qualifying event at any time from 09/01/2008 through 02/16/2009; and
2. Either did not elect COBRA continuation coverage, or who elected it but subsequently discontinued COBRA.

Notification must be sent to any potentially eligible individuals (former employees and/or their dependents) by 04/18/2009. We always recommend sending correspondence with a Certificate of Mailing. If you need assistance modifying the model notices to meet your specific needs, please contact us so that we may advise you accordingly.

There has also been clarification regarding who is responsible for the 65% subsidy.

Employer groups subject to federal COBRA

Employers are responsible to submit 100% of the applicable premium to their insurance carrier. To receive a credit (65% subsidy) for any COBRA participants who qualify as "**assistance eligible individuals**", the amount should be reported on the updated Form 941, (Employer's Quarterly Federal Tax Return) which may be obtained at the following website: <http://www.irs.gov/pub/irs-pdf/f941.pdf>

Employer groups subject to State Continuation

The insurance carriers are responsible to subsidize the premium for any "**assistance eligible individuals**", however a universal procedure that all carriers must follow has not been created. Lack of an industry standard has left the insurance companies to implement their own guidelines as to how reduced premiums will be conveyed and collected e.g., reduced premium on group bill, leave up to the employer to calculate and submit appropriate amount, generate a separate invoice, etc. Note that March and April statements have already been generated and will reflect the full premium for any continuees. As always, we recommend paying these invoices as billed to avoid the possibility of being cancelled due to a short payment. **As updates are released, we will continue to communicate them to you as quickly as possible.**

Please note that we are here to provide guidance and assist you in anyway that we can, however NJSC/COBRA are laws and we are not lawyers. If you anticipate facing a legal issue or have in-depth questions, we recommend contacting the applicable government agency or an ERISA attorney to discuss the matter in full detail. If you do not have a relationship with an attorney, we can provide a referral.

Sincerely,



Ed Gaelick, CLU
PSI Consultants, LLC