

**Employer Guide**  
**COBRA Subsidy Extension**  
Effective December 19, 2009

On December 19, 2009, President Obama signed the 2010 Department of Defense Appropriations Act which extended the eligibility and duration of the 65% COBRA subsidy provided by the American Recovery and Reinvestment Act of 2009. Eligibility has been extended by 2 months to include employees who are involuntarily terminated between September 1, 2008 and February 28, 2010. The duration of the subsidy has been extended by 6 months for a maximum of up to 15 months from the date of an individual's original loss of coverage.

In response to the federal extension, the Oregon Insurance Division adopted a rule on December 22, 2009 which mirrors the federal requirements for employers who are not subject to COBRA but whose employees may continue their health coverage under Oregon's state continuation law.

Accompanying this Guide are 2 documents: a 2010 COBRA Continuation Coverage Election Notice and a COBRA Subsidy Extension Notice. Without getting into a full explanation of the new laws, you will be in compliance if you do the following:

- After you have filled in the blanks of a 2010 COBRA Continuation Coverage Election Notice to fit a specific individual, provide that notice within the usual time periods for providing this notice (explained in the next paragraph). This notice and a COBRA Subsidy Extension Notice should be provided to individuals who lose coverage due to an involuntary termination of employment for other than gross misconduct between October 31, 2009 and February 28, 2010.

If your plan has a separate administrator, you must notify the administrator of an individual's involuntary termination of employment within 30 days and the administrator must provide the notices to qualified beneficiaries within 14 days. If your plan does not have a separate administrator, you must provide the notices within 44 days.

- Provide a COBRA Subsidy Extension Notice by February 17, 2010 to:
  - Individuals eligible for the ARRA subsidy on or after October 31, 2009. These individuals may already be enrolled in COBRA.
- Provide a COBRA Subsidy Extension Notice within 60 days from when an individual exhausts a 9-month subsidy:
  - To individuals who previously received the COBRA subsidy but who ceased COBRA coverage when their 9-month subsidy expired; and
  - To individuals who previously received the COBRA subsidy and have continued COBRA coverage by paying more than 35% of the premium when the 9-month subsidy expired.

**Note:** Since the earliest the COBRA subsidy could have begun was March 1, 2009, the earliest the 9-month subsidy would have ended was November 30, 2009.

- Upon request, reinstate the coverage of individuals who previously received the subsidy but who ceased paying for COBRA coverage when the subsidy was exhausted.

- Coverage must be retroactive to the date the COBRA coverage was terminated so that there is no break in coverage.
  - Payment for the retroactive premiums is due by February 17, 2010 or within 30 days of the former employee's receipt of the notice, whichever is later.
- for those who continued COBRA coverage by paying more than the minimum premium despite the loss of the subsidy, the employer must provide a refund or credit against future premiums for amounts paid in excess of 35% of the COBRA premium.