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COBRA Subsidy Extended Again and Expanded to additional Qualifying Beneficiaries

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Yesterday, the President signed H.R. 4691 titled "Temporary Extension Act" for the purpose of extending certain benefits and programs which expired on February 28, including the COBRA premium subsidy. There are 3 things for plan administrators to first consider in light of the new 30-day COBRA subsidy extension:

1. The Legislation. The legislation provides some differences from the previous extension requirements and assigns plan administrators with an additional notice requirement:
 - a. Temporary Extension Act Assistant Eligible Individuals. An assistant-eligible individual ("AEI") under this extension includes any qualifying beneficiaries who are involuntarily terminated after the enactment of the Act (i.e. March 2nd) PLUS it includes those qualifying beneficiaries who were involuntarily terminated after March 2, 2010, AND who previously experienced a qualifying event for reason of a reduction in work hours BUT (1) did NOT previously elect continuation coverage, or (2) elected and discontinued continuation coverage.
 - b. TEA-AEI Coverage Elections. Those AEIs who previously had a qualifying event by reason or a reduction in hours and are now entitled to make an election for subsidized coverage (referred to here as "temporary extension act AEIs" or "TEA-AEIs") shall be provided an opportunity to further elect subsidized continuation coverage as if the involuntary termination was the qualifying event.
 - c. TEA-AEI Special Calculation of Coverage Period Rule. For purposes of calculating the period of entitlement to COBRA coverage, the date of the qualifying event for any TEA-AEI shall be the date of the qualifying event by reason of the reduction in hours and not the involuntary termination.
 - d. Notice. The plan administrator is required to provide to qualified beneficiaries and new participants a notice with information of this extension under the same rules as those governing the notices required under the previous notices.

2. Qualified Beneficiary Notification. The DOL has not yet posted a model notice or any guidance on how notices should be treated with this new extension. It is advised that pending DOL notification guidance, plan administrators immediately provide information of their eligibility for subsidized continuation coverage to qualified beneficiaries who are involuntarily terminated today or after should be informed.

3. AEI Eligibility. Because of the special eligibility and calculation requirements for TEA-AEI under the new legislation, it is advised that plan administrators contact their third-party administrator to confirm that:

- a. the appropriate procedures are in place to provide an election for subsidized coverage to those who are involuntarily terminated after yesterday and who previously experienced a (1) who did not elect or (2) who elected but discontinued, continuation coverage by reason of a reduction in work hours, and;
- b. the COBRA coverage period for TEA-AEIs is calculated from the date of qualifying event be reason of the reduction in hours.

Please call with any comments or questions.