



COBRA Provisions Likely to Be Enacted as Part of Department of Defense Appropriations Act

The House will likely vote today on the COBRA subsidy expansion as part of the House Amendment to the Senate Amendment to H.R. 3326 – Department of Defense Appropriations Act, 2010. The text can be found as Section 1010 starting on page 153 linked here

http://www.rules.house.gov/111/LegText/111_hr3326_hamnd.pdf.

If enacted in its current form, the provision would:

a) Change the end date of eligibility for the ARRA subsidy from December 31, 2009 to February 28, 2010;

b) Expand the ARRA premium subsidy period to 15 months (increased from current 9 months);

c) Allow a period for the retroactive payment of premiums for assistance eligible individuals (i.e., individuals who were entitled to the subsidy) whose subsidy period expired on November 30th and who failed to pay their premium for December coverage. The retroactive period is 60 days, commencing with the enactment of the provision or, if later, 30 days after provision of the Notice described in d below. The same refund/credit rules under the original bill apply to any AEI whose subsidy expired in November and who have since paid the full COBRA premium.

d) Require a special Notice to all assistance eligible individuals who are on COBRA on or after November 1st or whose qualifying event is a termination of employment occurring on or after November 1st, describing the new 15 month premium subsidy. Note: Going forward most administrators will incorporate this additional notice in their standard COBRA package; and

e) Address an issue with regard to the original subsidy (i.e., both the qualifying event and the 18 month COBRA period must commence prior to the original sunset date of December 31st) by conditioning eligibility for the COBRA subsidy only on a qualifying event that is the involuntary termination of employment occurring on or before the new February 28, 2010 sunset date, without regard to when the COBRA coverage period begins. Thus, for employers providing subsidized coverage that defers the COBRA start date, the 15 month period (which is applicable only to the COBRA period) may not commence until well into the future.

We will continue to follow this Bill and keep you posted on developments as they occur.
