



White and Williams LLP



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COBRA SUBSIDY EXTENSION

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President Obama recently signed the Department of Defense Appropriations Act, 2010 into law. The Appropriations Act extends the COBRA subsidy rules that were initially enacted under the American Recovery and Reinvestment Act (ARRA).

THE APPROPRIATIONS ACT

The Appropriations Act includes several significant changes to the COBRA subsidy rules that were first announced under the ARRA. For a more complete discussion on the ARRA, see our March 2009 News Alert entitled, "The American Economic Recovery and Reinvestment Act: Critical COBRA Changes Retroactive to September 2008."

Under the Appropriations Act, the most significant changes to the COBRA subsidy rules include:

- the latest date for an employee to experience an involuntary termination is extended from December 31, 2009 to February 28, 2010. An individual will not be required to start COBRA coverage before that date, as long as the qualifying event occurs before the expiration date;
- the maximum period for receiving the COBRA subsidy is extended from 9 to 15 months;
- individuals who lost coverage when the COBRA subsidy expired are permitted to reinstate that coverage retroactively through the payment of the subsidized premium. Individuals who paid full COBRA premiums upon losing the subsidy are entitled to a refund or credit for any overpayments; and
- employers are required to provide additional notification of the revised rules.

ADDITIONAL CHANGES EXPECTED

In addition to the changes provided under the Appropriations Act, the United States Congress is expected to further amend the COBRA subsidy rules sometime in 2010. For instance, The Jobs for Main Street bill, which is still before Congress, includes provisions to allow individuals who experience an involuntary termination as late as June 30, 2010 to qualify for the COBRA subsidy. We will continue to monitor these developments and provide additional updates.

CONCLUSION

Employers need to act promptly to provide the appropriate COBRA notices and to update their systems to accommodate the extension. We recognize every employment situation is unique and, as a result, compliance with the Appropriations Act and ARRA may require close legal analysis.

If you have any further questions or concerns, please contact:

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