



HR Advisor

The Monthly Newsletter from your HR Support Center

February 2010

Welcome

We hope your new year has been off to a productive and successful start, and February brings you exciting new opportunities to strengthen and grow your business.

HR Alerts

HIPAA Rules Extend to Business Associates. Effective February 17, 2010, certain HIPAA security provisions will apply directly to business associates in a similar extent to covered entities. Additionally, the HIPAA Privacy Rule will contain an expanded right to request restrictions on the use or disclosure of protected health information.

The U.S. DOL Updates COBRA Model Notices. The U.S. Department of Labor has published new Model Notices that reflect the COBRA subsidy extension under the Department of Defense Appropriations Act of 2010.

COBRA-ARRA Subsidy Extension and Requirement

COBRA allows eligible individuals to continue employer-provided group health coverage for a specified time period due to certain qualifying events, such as job loss. In February 2009, the American Recovery and Reinvestment Act of 2009 (ARRA) was enacted and provided a temporary 65% COBRA (or similar state continuation coverage) premium subsidy for eligible individuals. In December 2009, President Obama signed the Department of Defense Appropriations Act (DDAA) which also amended the ARRA. For individuals who were involuntarily terminated from employment (and for eligible family members), the DDAA:

- Extended the eligibility period to qualify for the COBRA subsidy,
- Increased the subsidy duration period, and
- Established new notice requirements.

Extended Eligibility Period

Under the ARRA, the current COBRA program provides a nine-month subsidy for COBRA-eligible individuals who experienced involuntarily employment termination and, as a result, who lost coverage on or after September 1, 2008 through December 31, 2009.

However, under the DDAA, the COBRA subsidy has been extended to 15 months for COBRA-eligible individuals who experienced involuntarily employment termination on or after September 1, 2008 through February 28, 2010.

Retroactive Subsidy Extension

Employers must allow an individual who lost the subsidized COBRA coverage when the subsidy expired to reactivate coverage by retroactively paying the COBRA premiums. These individuals are considered eligible for the extension if they pay the reduced premium amount for the entire period since the lapse of their COBRA coverage by February 17, 2010 or, if later, 30 days after they receive proper notice of their new rights under the law.

For individuals who paid for the full premiums following the lapse, employers generally must either make a reimbursement payment equal to the excess portion paid or credit that amount toward future premiums payable.

New Notice Requirements

Certain current and former participants and beneficiaries must be notified about the current premium reduction provisions. For more information about the new notice requirements, please review the information in the Tool of the Month in this newsletter.

Action Items

- Identify individuals affected by the subsidy extension.
- Send required notices to affected individuals (which may be already managed by your COBRA administrator).
- Provide credits or refunds to individuals, who paid the full COBRA amount for December and/or January and who are now eligible for a subsidy for those months, and restore coverage for individuals who did not make those payments but now pay them retroactively.
- Track future eligibility and end dates for COBRA-eligible individuals and participants.

Note: COBRA may be extended yet again (to June 30, 2010) due to the proposed Jobs for Main Street Act on which Congress is currently debating.

Question & Answer

The Employer's Obligation with an Order of Protection

Q. An employee stated that she has filed an Order of Protection against a current client and that our

HRCast of the Month

Top Ten I-9 Tips

Business owners should be proactive in confirming work eligibility before hiring a new employee. Compared to dealing with Immigration and Customs Enforcement, internally addressing issues right up front is a lot easier.

HR Tip of the Month

Promote Health and Wellness

Consider the employee-friendly practice of educating employees on proper nutrition and effective exercise techniques. Think about organizing a walking group during lunch breaks or offering discounts at local fitness centers for employees to join.

Did you Know?

93,277

The number of workplace discrimination charges filed in 2009 and the second highest level of charges ever filed with the Equal Employment Opportunity Commission. (Source: EEOC)

Quote of the Month

"You get the best out of others when you give the best of yourself."

- Harry Firestone

A Look Ahead

February 1
National Freedom Day

February 2
Groundhog Day

February 7
Superbowl Sunday

February 14
Lunar New Year
Valentine's Day

February 15
President's Day

February 16
Mardi Gras / Fat Tuesday

February 17
Ash Wednesday

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company can no longer serve the client in question due to the order. What is our legal obligation to the employee?

A. First of all, have your employee provide you with a copy of the Order of Protection (These are sometimes referred to as restraining orders) as it would typically contain very specific language.

A judge issuing an Order of Protection may order the “respondent” / client to:

- Refrain from harassing, abusing, stalking, intimidating or interfering with the personal liberty of the “petitioner” / employee,
- Not go in or near the employee’s work, home, school, or other site frequented by the employee, and/or
- Cease from contact of any form with the employee, etc.

Most orders include a prohibition against entering the victim’s place of employment. If the employee agrees, the employer can make the appropriate staff (i.e. those who interact with on-site visitors) aware of the situation by providing a description of the individual as well as a copy of the order. The employer could then instruct them to contact the police if they suspect that the individual is on-site or in violation of the order. Additionally, you can make sure that there is ample lighting surrounding the facilities (i.e. the parking lot), and allow the employee to park closer to the workplace. You may choose to be flexible if the employee needs time off to attend hearings or counseling.

While it is your employee’s responsibility to sit down with you (the employer) and discuss the order of protection and offer reasonable suggested solutions or modifications, there is no need to ban the client from your company except when the employee is on or near the work premises.

New E-Verify Rule Impacting Federal Contractors

It is vital for employers to understand there are new regulations impacting the E-Verify system for federal contractors. Federal contractors are obligated to utilize the E-Verify system to figure out if employees are eligible to legally work in the United States.

On or before September 8, 2009 it was not mandatory for employers to use the U.S. Citizenship and Immigration Services’ E-Verify system. Employers were able to use it for new hires on a voluntary basis, if they had for at least 120 days contracts valued more than \$100,000. Effective after September 8, 2009, however, new and current employees who work on a contract must be reported through the new E-Verify system.

Considerations for Employers:

- **Get More Familiar.** Learn about the new E-Verify system whether or not you currently have federal contracts to ensure more proficiency and efficiency.
- **Know the Contracts.** Make sure your point person with the HR role and responsibilities is aware of any federal contracts to help stay in compliance.
- **Plan It Out.** The entire staff may need to go through the E-verify system which can pose various administrative (i.e. time and costs) and employee morale issues.
- **Conduct Regular Checks.** Regularly track to ensure you have up-to-date employee I-9 information and that they meet current compliance standards.

It is unlawful if employers choose to ignore the new rules and regulations and not apply them consistently and fairly in their line of business. So, know if you have federal contracts, and be consistent with Form I-9 and other employment verification documentation practices to avoid misrepresentation and discrimination.

Tool of the Month:

New COBRA Model Notices

The ARRA mandates that plans notify certain current and former participants and beneficiaries about the current COBRA premium reduction subsidy. To help meet the requirements, the U.S. Department of Labor (DOL) has provided model notices. Each model notice is designed for a particular group of individuals and contains information to help satisfy ARRA’s notice provisions, including those added by the recent DDAA.

- **General Notice.** The General Notice (the “full version”) must be sent to all qualified beneficiaries (not just covered employees) who have not been provided a COBRA election notice, and who have a qualifying event at any time from September 1, 2008 through February 28, 2010 (regardless of the type of qualifying event). Individuals who experience any qualifying event after December 19, 2009 must get the updated General Notice within the normal timeframes for providing a COBRA election notice.
- **Extension Notice.** The “Premium Assistance Extension Notice” should be provided to individuals who:
 - As of October 31, 2009, were receiving premium assistance;
 - As of October 31, 2009, had received the full nine months of premium assistance required under ARRA and either did not make a payment for subsequent periods of coverage, made payment of less than the full COBRA premium, or made payment of the full premium; or
 - Experienced a qualifying event that was the termination of a covered employee’s employment on or after October 31, 2009, and did not received a notice that explained the premium subsidy as extended.
- **Alternative Notice.** This version is to be sent by insurance issuers that provide group health insurance coverage to persons who became eligible for continuation coverage under state law. Since these coverage requirements vary among states, issuers should modify this model notice as necessary to conform to applicable State law.

For immediate use, you can easily download and revise the sample notices found under “HR Forms” in the “Essentials” tab section of the HR Support Center website.

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