

PROBLEM PREVENTION BULLETIN ~ DECEMBER 2009

# COBRA Subsidy Extended & Expanded

**Effective immediately.** The government subsidy of COBRA benefits has been extended and expanded. The change was slipped into the 2010 Defense Appropriations Act and signed into law on December 19, 2009. WAAG AND CO. reported on the original subsidy in our April 2009 newsletter, *The Strategic EMPLOYER* (pages 4 - 5) and on the proposed expansion in the December 2009 edition of *The Strategic EMPLOYER* on page 6.

**Only a Two Month Extension:** The new law extends the eligibility date for the COBRA premium subsidy for two additional months, meaning that individuals who are involuntarily terminated on or before February 28, 2010 will be eligible. This does not require that the individual be eligible for COBRA by February 28, 2010; the controlling factor is the date of the qualifying event. So an individual who is involuntarily terminated on February 28, 2010, and becomes eligible for COBRA on March 1, 2010, would be eligible for the subsidy if he or she otherwise meets the requirements of an "assistance eligible individual."

**Subsidy Up To 15 Months:** The new law also lengthens the maximum period for receiving the subsidy by six months (from nine months to 15 months). This means that individuals who had reached the end of the reduced premium period before the extension will have additional time to pay for certain subsequent coverage periods at the reduced rate. In that case, for

coverage periods that began prior to enactment of the new law, these individuals will need to pay 35 percent of applicable premium costs by the later of February 17, 2010 (60 days after date of enactment, December 19, 2009) or 30 days after notice of the extension is provided by their plan administrator.

**Additional Notice Required:** Group health plan administrators must provide an additional notice concerning the subsidy extension. The notice is required for individuals who, on or after October 31, 2009, either: (a) are "assistance eligible individuals;" or (b) experience a qualifying event (consisting of involuntary termination of employment) relating to COBRA continuation coverage. This notice generally must be sent within 60 days of enactment (by February 17, 2010), unless a qualifying event occurs after December 19, 2009. In that case, the notice, which must now include information regarding the new expanded subsidy, must be sent pursuant to the general timing rules under existing COBRA regulations.

**Retroactive Reinstatement of Coverage:** A separate notice is required for certain individuals who ceased to pay their COBRA premiums or paid it in full during the original nine-month subsidy period. These individuals will be able to retroactively reinstate their coverage by paying the subsidized premiums, or, in the case of those who paid the full premiums, receive a credit or

**Action Notes:**


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**Route to:** HR Dept: \_\_\_\_\_ Accounting Dept: \_\_\_\_\_ Benefits Admin: \_\_\_\_\_ Managers:

*This bulletin is a general overview of the subject matter, and is not meant to provide professional opinions regarding any specific case, matter, or set of facts, or to substitute for the professional advice of Waag and Co. Instead, please contact Susan S. Waag, Esq. for additional information.*

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refund of premiums paid.

□ **There May Be More To Come:** There are still some other bills pending before Congress to further expand the COBRA subsidy in a number of ways. It is likely that the recently-signed expansion was merely a stop-gap measure until more expansive legislation winds its way through Congress.

□ **Recommendation:** Employers subject to state “mini-COBRA” laws will need to monitor developments under applicable state law to see how their state reacts to the changes made by the new subsidy expansion. Stay tuned. As always, WAAG AND CO. will continue to monitor the situation.

## Susan Waag to Give Legal Updates in 2010

Attorney Susan Waag will be giving presentations to employer groups in January, 2010. This is an excellent way to start the new year by receiving information on upcoming legislation that affects employers, as well as being able to get your questions answered. Topics and how to make reservations are detailed below:

□ **“Trends in Sexual Harassment Issues”;**  
Panel: Susan Waag (employment law attorney), Dave Warren (plaintiff’s attorney) and Susan Whalen (Chief Operating Officer of RRM Design)  
• Women Lawyers Association (“WLA”) •  
*January 7, 2010* from 12:00 p.m. – 1:30 p.m. at Pacific Capital Wealth Management, 997 Monterey Street, Third Floor, SLO • Cost for Program: \$10 for WLA members; \$15 for non-members, with Lunch add on another \$12 • RSVP to [esperow@calpoly.edu](mailto:esperow@calpoly.edu) by January 5, 2010.

□ **“What Employers Need To Know For 2010”**  
• Speaker: Susan Waag • Employer Advisory Council, in partnership with the California EDD • *January 20, 2010* from 8:00 a.m. – 11:30 a.m. at Paso Robles Inn, Matador Banquet Room, 1103 Spring Street, Paso Robles • Cost: \$25 • For more information and to RSVP, contact Carole Cardamone at [carole.cardamone@edd.ca.gov](mailto:carole.cardamone@edd.ca.gov) (805) 788-2680.

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