

Department of Labor Issues Model COBRA Subsidy Notices

The Department of Labor has published [Model Notices](#) regarding the new COBRA subsidy provided under the American Recovery and Reinvestment Act of 2009 (ARRA). Each of these notices is intended to provide information to particular groups of COBRA qualified beneficiaries, including those whose COBRA qualifying event during the period beginning September 1, 2008 and ending on December 31, 2009 did not involve an involuntary termination of employment.

The DOL has provided four Model Notices:

- A full version of the notice, including election information, must be sent to all qualified beneficiaries who: (1) experienced any COBRA qualifying event (whether or not involving an involuntary termination) from September 1, 2008 through December 31, 2009; and (2) have not yet received a COBRA election notice or who were provided an election notice on or after February 17, 2009 that did not include information about the subsidy.
- For those qualified beneficiaries who experienced a qualifying event on or after September 1, 2008 and have already elected and still have COBRA coverage, an abbreviated version of the notice, omitting information regarding a COBRA election, may be sent by April 18, 2009.
- Employers who are not subject to COBRA but who are required under state law to offer continuation coverage to qualified beneficiaries may choose to send a version of the Alternative Notice, modified to comply with applicable state law, to any such individual who experienced any COBRA qualifying event between September 1, 2008 and December 31, 2009.
- Finally, the Notice in Connection with Extended Election Periods must be sent to qualified beneficiaries who were involuntarily terminated any time from September 1, 2008 through February 16, 2009 and who either: (1) did not elect COBRA coverage; or (2) elected it but discontinued that coverage. This extended election period notice must be sent no later than April 18, 2009. Note that under ARRA, this notice does not need to be sent to individuals whose continuation of coverage is provided under state law unless the state requires it be sent.

Eligible individuals will have 60 days after the notice is provided to elect subsidized COBRA coverage.

We expect further guidance from the Internal Revenue Service in late March or early April on other aspects of the subsidy program, including what constitutes an involuntary termination for purposes of subsidy eligibility. In the meantime, employers can review the set of [Frequently Asked Questions](#) posted by the DOL, and they should prepare to distribute the appropriate notice(s) or, if applicable, work with their COBRA administrators to do so.

If you have questions regarding the notices or your obligations under the new COBRA subsidy program, please contact your usual Ropes & Gray attorney. In addition, Ropes & Gray will review the requirements of the subsidy program and provide updates on any additional guidance at an upcoming teleconference. [Register here](#) for the teleconference, which will take place from 3:00-4:00 pm (EDT) on April 7.