



### **Model Notices Relating To The COBRA Subsidy**

Attention employers! On March 19, 2009, the United States Department of Labor (“DOL”) issued model notices for use by employers when notifying former employees of their potential eligibility for the federal COBRA subsidy made available under the American Recovery and Reinvestment Act of 2009. There are four notices, each with different applicability. We are supplying you with the links to the four notices so that you may save the forms for your convenience. You will note that each notice includes italicized writing, indicating how the notice must be personalized for each respective former employee.

1. General Notice (Full Version):

<http://www.dol.gov/ebsa/COBRAGeneralnoticefullversion.doc>

This notice should be sent to qualified former employees and beneficiaries who had a qualifying event between September 1, 2008 and December 1, 2009, and who have not yet received an election notice.

2. General Notice (Abbreviated Version): <http://www.dol.gov/ebsa/COBRAGeneralnoticeabbreviatedversion.doc>

This notice should be sent to qualified former employees and beneficiaries currently enrolled in COBRA coverage who had qualifying events that occurred on or after September 1, 2008.

3. Alternative Notice:

<http://www.dol.gov/ebsa/COBRAalternativenotice.doc>

This notice applies to employers who are covered by State group insurance continuation laws, instead of COBRA.

4. Notice in Connection with Extended Election Periods:

<http://www.dol.gov/ebsa/COBRAextendedelectionperiodnotice.doc>

This notice should be sent to qualified former employees and beneficiaries who are or would be eligible for the subsidy, but who are not enrolled in COBRA coverage (including those who never elected and those who elected but subsequently discontinued coverage), who had qualifying events that occurred between the period from September 1, 2008 and February 16, 2009.

Employers should consider using the model notices for several reasons.

**First**, as the notices were drafted by the DOL, any challenge by a former employee or qualified beneficiary to a DOL notice will be weak.

**Second**, the DOL’s model notices highlight that the former employee receiving the notice may be *eligible* for the COBRA subsidy, but no definite right exists to the subsidy unless the former employee meets certain criteria.

**Third**, the DOL’s notices require that the former employee or qualified beneficiary elect to receive the COBRA subsidy, instead of “waive out” of receiving the subsidy. As there are tax consequences associated with accepting the COBRA subsidy, employers will want their former employees to affirmatively choose to accept the subsidy.

**Fourth**, the DOL includes in its notices a form for use by a former employee or qualified beneficiary who becomes ineligible for the subsidy due to becoming eligible for other group health plan coverage.

Should you have any questions regarding these model notices, or the COBRA subsidy in general, please feel free to contact either Beth Langley, Alex Barrett, or Sara Simberg at (336) 232-0650.