

Akerman Practice Update

EMPLOYEE BENEFITS

December 2009

Extension of COBRA Premium Subsidy

Beth Alcalde
beth.alcalde@akerman.com

On Monday, December 21, 2009, President Obama signed into law a defense spending bill that included provisions that extend the federal COBRA subsidy currently available to certain individuals who have been involuntarily terminated from their jobs, and their affected dependents. Please refer to prior Practice Updates for additional legal and administrative details about the existing subsidy provisions.

Previously, the 65% COBRA premium that could be subsidized by the federal government was limited to a maximum of 9 months in the event of an involuntary termination of employment occurring on or before December 31, 2009, that also led to a loss of group health coverage on or before December 31, 2009. The maximum length of the subsidized COBRA is extended to 15 months and will be available to eligible workers who lose their jobs through February 28, 2010. Note that in contrast to the prior law, the new language conditions eligibility for the COBRA subsidy only on the involuntary termination having occurred on or before the new February 28, 2010 deadline, regardless of when group health coverage is actually lost. As a practical matter, this means that the 15-month subsidy period could actually begin well in the future.

For those qualified beneficiaries whose 9-month period of subsidized COBRA has already expired, the bill provides that another six months of subsidized coverage will be available. For example, an assistance eligible individual's COBRA subsidy could have ended on November 30, 2009, and based on the high cost of unsubsidized COBRA coverage, she may have decided to let her COBRA period lapse by not paying for any COBRA coverage for the month of December. Under this new bill, that individual will be able to pay 35% of the December COBRA bill in the month of January, and receive retroactive COBRA coverage for the month of December.

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Another noteworthy aspect of the new bill is that employers have an obligation to notify anyone who was an “assistance eligible individual” at any time on or after October 31, 2009, or later, of the new 15-month COBRA premium subsidy that is available, generally within 60 days from the date of the bill’s enactment.

Employers will need to promptly work with their COBRA administrators to ensure that these new notification and administration requirements are satisfied.

Please do not hesitate to contact any of the following Akerman Senterfitt employee benefit attorneys with questions.

Beth Alcalde	561.671.3657	beth.alcalde@akerman.com
Peter Salomon	305.982.5567	peter.salomon@akerman.com
Rick Hurt	407.419.8518	rick.hurt@akerman.com
Ian Minkin	305.982.554	ian.minkin@akerman.com
Nadine Schaal	407.419.8533	n.schaal@akerman.com

Akerman is ranked among the top 100 law firms in the U.S. by *The National Law Journal NLJ 250* (2009) in number of lawyers and is the largest firm in Florida. With more than 500 lawyers and government affairs professionals, we serve clients from major business centers in Florida, New York, Washington, D.C., California, Virginia, Colorado, and Texas.

For more information, please contact a member of our Employee Benefits practice.

Dallas

600 North Pearl Street, Suite S1900
Dallas, Texas 75201
214.720.4300

Denver

511 Sixteenth Street, Suite 420
Denver, CO 80202
303.260.7712

Ft. Lauderdale

Las Olas Centre II
350 East Las Olas Boulevard
Suite 1600
Ft. Lauderdale, FL 33301-2229
954.463.2700

Jacksonville

50 North Laura Street, Suite 2500
Jacksonville, FL 32202-3646
904.798.3700

Los Angeles

725 South Figueroa Street, 38th Floor
Los Angeles, CA 90017-5438
213.688.9500

Madison

One South Pinckney Street
Suite 700
Madison, WI 53703
608.257.5335

Miami

One Southeast Third Avenue
25th Floor
Miami, FL 33131-1714
305.374.5600

New York

335 Madison Avenue, Suite 2600
New York, NY 10017-4636
212.880.3800

Orlando

CNL Center II at City Commons
420 South Orange Avenue, Suite 1200
Orlando, FL 32801-3336
407.423.4000

Tallahassee

Highpoint Center, 12th Floor
106 East College Avenue
Tallahassee, FL 32301
850.224.9634

Tampa

SunTrust Financial Centre
401 East Jackson Street, Suite 1700
Tampa, FL 33602-5250
813.223.7333

Tysons Corner

8100 Boone Boulevard, Suite 700
Vienna, VA 22182-2683
703.790.8750

Washington, D.C.

The Victor Building
750 9th Street, N.W., Suite 750
Washington, DC 20001
202.393.6222

West Palm Beach

Esperante Building
222 Lakeview Avenue, Suite 400
West Palm Beach, FL 33401-6183
561.653.5000

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