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COBRA Update: Final COBRA Subsidy Termination Notices Now Due

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by George J. Kasper and Jonathan B. Orleans As mentioned in our prior COBRA update, the American Rescue Plan Act (ARPA) provides for government-subsidized COBRA premium payments. The subsidy is available to COBRA qualified beneficiaries who become eligible for COBRA due to either a reduction in hours or involuntary termination of employment during the period April 1, 2021 through September 30, 2021. These COBRA qualified beneficiaries are referred to as “assistance eligible individuals” (AEI).

Special notice requirements apply concerning the COBRA subsidies, including a subsidy expiration notice that plan administrators or insurers must provide to an AEI before the subsidy ends.

The subsidy expiration notices are due no more than 45 days and no fewer than 15 days before the date that the COBRA subsidy will end for the AEI. For current AEIs, this means that the notice must be provided by September 15, 2021 to reflect the end of the COBRA subsidy period on September 30, 2021. The Department of Labor has published a web page that includes a model Expiration of Premium Assistance Notice. Note that the subsidy expiration notice is not required if the COBRA continuation coverage is terminated due to eligibility for another group health plan or Medicare.

The subsidy expiration notice should be provided immediately, even if the September 15 deadline has passed. As a reminder, failing to comply with COBRA’s requirements, including the notice requirements under ARPA, could result in significant liability for your organization. If you have questions about your organization’s obligations under COBRA and/or ARPA, or for compliance assistance, please contact any of our Labor, Employment Law, and Employee Benefits attorneys.

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