

April 19, 2010

MEMORANDUM TO CLIENTS

RE: Two-Month Extension to COBRA Subsidy Signed into Law on April 15, 2010

The American Recovery and Reinvestment Act of 2009 ("ARRA"), enacted on February 17, 2009, provides a federal subsidy for COBRA premiums for certain employees and covered family members who lost or will lose coverage under a group health plan due to involuntary termination of employment from September 1, 2008 through December 31, 2009. The Department of Defense Appropriations Act for Fiscal Year 2010 ("DOD Act") extended the COBRA subsidy program through February 28, 2010 and increased the subsidy period from 9 months to 15 months. The Temporary Extension Act of 2010 ("TEA") extended the COBRA subsidy program through March 31, 2010 and clarified that the COBRA subsidy is available to individuals who experience a loss of group health coverage due to a reduction in hours that is followed by an involuntary termination, as well as certain other changes and clarifications.

On April 15, 2010, the President signed the Continuation Extension Act of 2010 (H.R. 4851), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4851enr.txt.pdf. The Act extends the COBRA subsidy premium program through May 31, 2010, including the period from April 1, 2010 through the date of enactment. The Act's COBRA subsidy provisions are effective as if originally included in ARRA. Below is a summary of the key provisions followed by a summary of possible future COBRA subsidy legislation.

- **Extended Expiration Date.** The COBRA subsidy program will be available for a loss of group health coverage due to involuntary termination (or a reduction of hours that is followed by an involuntary termination) through May 31, 2010.
- **Transition Period.** For individuals who experienced a termination of employment on or after April 1, 2010, but before April 16, 2010, the Act requires the plan administrator to notify such individuals by June 15, 2010 of their ARRA rights (including the COBRA subsidy) and to allow them to elect COBRA coverage up to 60 days after they are provided with such notification.

The numerous extensions and new notice requirements have made the administration of COBRA continuation coverage requirements a challenge for employers, plans and administrators and additional extensions are likely. The Jobs for Main Street Act (H.R. 2847), passed by the House last December, would extend the COBRA subsidy program through June 30, 2010. In March, the Senate passed the American Workers, State, and Business Relief Act of 2010 (H.R. 4213), which would extend the COBRA subsidy program through December 31, 2010. It is possible that Congress will pass a longer-term extension before the Memorial Day Congressional recess, but the timing and legislative vehicle for such an extension remains uncertain.

We will provide updates on further developments. If you have any questions, please contact your regular Groom attorney or any of the Health and Welfare Practice Group attorneys listed below:

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