



EMPLOYMENT LAW ALERT

May 20, 2021

By: Kimberly B. Malerba, Esq.

Nicole E. Della Ragione, Esq.



May 31 Notice Deadline Approaching For COBRA Subsidy

The American Rescue Plan Act of 2021 (the “Act”) includes a 100% COBRA premium subsidy effective April 1 through September 30, 2021 for eligible individuals who wish to remain on their previous employers’ health insurance. Under the Act, employers must provide eligible individuals with notice of their ability to elect coverage by **May 31, 2021**. The United States Department of Labor (“DOL”) has issued guidance and model notices to assist employers in properly notifying eligible individuals.

The DOL has clarified eligibility for the COBRA subsidy. The premium subsidy is available to individuals who experienced a COBRA qualifying event due to involuntary termination, or a voluntary or involuntary reduction in hours. A reduction in hours includes individuals who become eligible for COBRA due to a change in an employer’s hours of operation, a change from full-time to part-time status, taking a temporary leave of absence, or an individual’s participation in a lawful labor strike, so long as the individual remains an employee at the time that hours are reduced. In addition, the DOL has explained that individuals are not eligible for the subsidy if they are eligible for other group health coverage (i.e., through a new employer or spouse) or Medicare. Individuals terminated for gross misconduct, and their dependents, are also not eligible for COBRA or the premium subsidy.

To assist employers in providing notice to eligible individuals, the DOL has created model notices that are available at: <https://www.dol.gov/cobra-subsidy>. Employers must review their records to identify former and current employees who may be eligible for this subsidy and provide them with proper notice by May 31, 2021. Employers that fail to satisfy the COBRA continuation requirements may be subject to excise taxes. This tax could be as much as \$100 per qualified beneficiary, but not more than \$200 per family, for each day that the employer is in violation of the COBRA rules.

The ongoing changes on the federal, state and local levels have continued to create additional complexities for employers to remain compliant with all of their obligations. Please contact us for assistance regarding this or any other employment law related matters.

For more information, please contact:

Kimberly B. Malerba, Esq.
(516) 663-6679
kmalerba@rmfpc.com

Nicole E. Della Ragione, Esq.
(516) 663-6687
ndellaragione@rmfpc.com