

CLIENT ALERT: New Massachusetts Mini-COBRA Requirements Have Immediate Impact for Small Employers

On July 2, 2009, Governor Deval Patrick signed into law legislation which may have immediate implications for Massachusetts employers subject to the Massachusetts Mini-COBRA law. The new legislation requires that Massachusetts employers with 2-19 employees now offer extended enrollment rights for continuation health care coverage – something which all employers with 20 or more employees were already required to have provided in accordance with provisions of the economic stimulus bill, formally titled the American Recovery and Reinvestment Act of 2009 (“ARRA”).

Among its many provisions, ARRA created a temporary federal subsidy for continuation coverage premiums under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) for individuals who elect continuation coverage prior to December 31, 2009. ARRA also mandated that employers provide an extended COBRA election period to individuals who gained eligibility for COBRA continuation coverage between September 1, 2008 and February 16, 2009 and either declined to elect coverage or elected and subsequently terminated coverage.

While the federal subsidy was available to individuals electing continuation coverage under Massachusetts’ Mini-COBRA law upon ARRA’s enactment on February 17, 2009, Massachusetts employers with 2-19 employees were not required to provide the extended election period at that time. However, under the new legislation signed by Governor Patrick, the extended election period must now be made available by Massachusetts employers with 2-19 employees.

All Massachusetts employers subject to the Massachusetts Mini-COBRA law now need to identify all individuals eligible for the extended election period and provide them with notice of their right to the extended election period under ARRA and the new Massachusetts legislation. Employers must provide these individuals with notice of this opportunity by September 2, 2009; and the eligible individuals will then have 60 days from the date the notice is

received to elect coverage.

An individual is eligible to receive the extended election period if he or she became eligible for continuation health care coverage between September 1, 2008 and February 16, 2009, and either declined to elect continuation coverage at the time, or elected and subsequently terminated coverage prior to February 16, 2009.

For more information on ARRA and the Massachusetts Mini-COBRA law, please see MBJ's Client Alert entitled, "[Changes to COBRA as a Result of the Economic Stimulus Bill](#)" dated April 10, 2009, or contact your MBJ attorney.

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