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Changes to COBRA Notices Required

Labor & Employment Practice Group

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The Consolidated Omnibus Budget Reconciliation Act (COBRA) mandates that group health plans provide covered employees and their families with certain notices outlining their COBRA rights. These notices include a general notice and an election notice. The general notice explains COBRA continuation coverage, when it may become available to the employee and their family, and what steps the employee should take to protect their rights to obtain coverage. The general notice must be provided to each covered employee within 90 days of the individual's enrollment date in the group health plan. The election notice explains the employee's rights to continue healthcare coverage in the event the employee's coverage under the plan is ending due to a qualifying event. The election notice must be provided to the employee within 14 days after the plan administrator receives notice that a qualifying event has occurred.

In light of the Affordable Care Act's (ACA) availability of healthcare coverage for employees who are losing job-based health coverage, the United States Department of Labor (DOL) issued revised models for general and election COBRA notices. The revised model notices inform employees that they may choose to purchase medical coverage through the Health Insurance Marketplace, put in place through the ACA, instead of electing to continue medical coverage through COBRA. The model general notice explains that enrollment in coverage through the Marketplace may qualify the employee for lower costs on monthly premiums as well as lower out-of-pocket costs. Additionally, this notice informs the employee that a special enrollment opportunity to elect other plan coverage may be available. The model election notice describes the Marketplace, the potential for tax credits, and cost-sharing reductions. This notice also explains when the employee can enroll in Marketplace coverage and directs the employee to the website, www.HealthCare.gov, which contains enrollment information. The model notices are available on the DOL's website at www.dol.gov/ebsa/cobra.html.

Employers are not required to use the DOL's revised model notices. However, the DOL considers use of these notices to be good faith compliance with COBRA notice requirements. Therefore, employers should either begin using the DOL's revised notices or update their own COBRA notices to reflect the new language approved by the DOL. In addition to ensuring that the employer's notices meet the content requirements, employers should review their COBRA administration procedures to verify the notices are also being provided in a timely manner.

If you have questions about COBRA notice requirements, please contact Tanya Bryant or any other member of Crowe & Dunlevy's Labor & Employment practice group.

Contact:
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About Crowe & Dunlevy

For more than 110 years, Crowe & Dunlevy has provided innovative and effective legal services to clients in numerous industries. The firm's attorneys are regularly ranked among the top lawyers in the nation by recognized peer-review organizations.

The firm's labor and employment attorneys are involved in a number of networks and professional resource groups, including the Employment Law Alliance, the most comprehensive network of labor and employment attorneys in the world. Our membership provides access to employment, labor, and immigration expertise in more than 135 countries around the globe and throughout the United States.

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