

Justification for No material/Nonsubstantive Change Request

The Department is hereby submitting updated model COBRA notices as a no material/nonsubstantive change request to OMB Control 1210-0123. The notices have been amended to reflect the provisions of the Tax Extensions Act of 2010 (TEA), which was signed by President Obama on March 2, 2010.

TEA amends the COBRA premium reductions provisions that originally were enacted by the American Recovery and Reinvestment Act of 2009 (ARRA) by extending the eligibility period for the 65% COBRA subsidy to qualifying events occurring during the period that begins with September 1, 2008 and ends with March 31, 2010. Before the extension, the eligibility period expired on February 28, 2010.

TEA also corrected the ARRA COBRA provisions by providing a new election right to **ALL** individuals who:

- experienced a qualifying event that was a reduction in hours at any time from September 1, 2008 through March 31, 2010;
- experienced a termination of employment at any point from March 2, 2010 through March 31, 2010; and
- either did not elect COBRA continuation coverage when it was first offered OR who elected but subsequently discontinued COBRA.

TEA retains the ARRA requirement for The Secretary of Labor to develop model notices reflecting the TEA amendments to the COBRA premium reduction provision, in consultation with the Secretaries of the Treasury and Health and Human Services. These models are for use by group health plans and other entities that, pursuant to ARRA, as amended, must provide notices of the availability of premium reductions and additional election periods for health care continuation coverage. The model notices are not included under the definition of a Collection of Information pursuant to 5 C.F.R. 1310.3(c)(2), which exempts, “[t]he public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public....”

The Department has revised its General and Alternative Notices to reflect the extension of the premium reduction to involuntary terminations occurring through March 31, 2010. The Department also is issuing the following three new notices that reflect the correction to the ARRA COBRA provisions that was enacted by the TEA: the Notice of New Election Period, Supplemental Information Notice, and Notice of Extended Election Period. These notices are discussed in detail below.

The *Notice of New Election Period* must be provided all individuals who (1) experienced a qualifying event that was a reduction in hours at any time from September 1, 2008 through March 31, 2010, (2) experienced a termination of employment at any point from March 2, 2010 through March 31, 2010, and (3) either did not elect COBRA continuation coverage when it was first offered OR who elected but subsequently discontinued COBRA.

Notice Requirements of the Health Care Continuation Coverage Provisions
OMB Number 1210-0123
March 2010

The *Supplemental Information Notice* must be provided to all individuals who elected and maintained COBRA continuation coverage based on the following qualifying events: (1) terminations of employment that occurred at some time on or after March 1, 2010 for which notice of the availability of the premium reduction available under ARRA was not given; and (2) reductions of hours that occurred during the period from September 1, 2008 through March 31, 2010 which were followed by a termination of the employee's employment that occurred on or after March 2, 2010 and by March 31, 2010.

The *Notice of Extended Election Period* must be provided to all individuals who (1) experienced a qualifying event that was a termination of employment at some time on or after March 1, 2010, (2) were provided notice that did not inform them of their rights under ARRA, as amended by TEA, and (3) either chose not to elect COBRA continuation coverage at that time or elected COBRA but subsequently discontinued that coverage.

OMB approved the ARRA COBRA notices on November 6, 2009, (ICR Reference Number 200908-1210-002) and the revised notices reflecting the Department of Defense Appropriations Act of 2010 amendments to the ARRA COBRA provisions on January 12, 2010, (ICR Reference Number 200912-1210-002).