



COMPLIANCE CORNER

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DOL AND IRS PROVIDE ARRA INFORMATION

The Department of Labor and the Internal Revenue Service have posted general information on their websites regarding the new COBRA provisions included in the American Recovery and Reinvestment Act of 2009 (ARRA). The information includes a link to the regulations, a new voluntary employment poster, and guidance regarding the payroll tax credit filing.

[Click here for information from the DOL, including regulations and an employment poster.](#)

[Click here for information on payroll tax credit filing.](#)

HIPAA PRIVACY AND SECURITY PROVISIONS AMENDED BY ARRA

The American Recovery and Reinvestment Act of 2009 (ARRA) includes amendments to the privacy and security provisions under the Health Insurance Portability and Accountability Act (HIPAA). Most of the changes are effective February 17, 2010. We will provide additional guidance in the coming months as it becomes available from the Department of Health and Human Services (HHS). The highlights of the new provisions include:

- Under current law, a business associate is not directly responsible for privacy and security requirements under HIPAA. Their obligation is through a signed business associate agreement with the covered entity. ARRA has amended HIPAA to make business associates directly responsible for certain requirements and subject to penalties for noncompliance.
- The term breach has been defined as: “the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information.”

- A covered entity will be required to notify affected individuals of a breach without unreasonable delay and in no case later than 60 calendar days following the discovery of the breach. If the number of affected individuals is greater than 500, the covered entity must also notify HHS and prominent media outlets.

[Click here for more information – page 144.](#)

HCTC SUBSIDY INCREASED

ARRA has amended provisions regarding the Health Coverage Tax Credit (HCTC). As a reminder, the HCTC is a federal subsidy for health coverage premiums that is available to individuals receiving Trade Adjustment Assistance (TAA), alternative TAA, or a pension paid in whole or in part by the Pension Benefit Guaranty Corporation (PBGC). For coverage periods beginning 60 days after the Act's enactment date of February 17, 2009 (which would generally be May 1, 2009), the subsidy amount is increased from the current 65% to 80%. The increased subsidy amount is effective through December 31, 2010. The maximum COBRA coverage period has also been extended for TAA recipients and PBGC recipients. TAA recipients will be eligible to continue coverage until their TAA eligibility terminates or December 31, 2010, whichever is earlier. Employees who are PBGC recipients will be eligible to continue coverage until the death of the employee or December 31, 2010, whichever is earlier. Spouses and dependents of a deceased PBGC recipient employee will be eligible to continue coverage until 24 months after the death of the employee or December 31, 2010.

[Click here for more information – page 309.](#)

STATE UPDATES

Michigan

Group and individual insurance policies are required to provide intermediate and outpatient coverage for substance abuse. That coverage must satisfy a minimum benefit level that is set annually. In Bulletin 2009-05-INS, Commissioner Ross has announced that the minimum benefit level for April 1, 2009 through March 31, 2010 is \$3,919, which is an increase from \$3,774.

[Click here for more information.](#)

Mississippi

The Office of the Attorney General has issued Opinion No. 2009-00008 regarding whether a local government may contribute towards the cost of retiree group health insurance coverage. Citing Section 25-15-103 of the Mississippi Code, the Attorney General's office stated that retirees that are eligible to continue health coverage through their local government employer must pay the entire cost of such coverage.

[Click here for more information.](#)

Ohio

Superintendent of Insurance Hudson has released Bulletin 2009-07, which adds infertility to the list of mandated coverage required for basic health care services. The term infertility would cover surgical procedures to correct a medically diagnosed condition or disease such as endometriosis, collapsed or clogged fallopian tubes, or testicular failure. However, coverage is not required for in

vitro fertilization, gamete intrafallopian transfer, or zygote intrafallopian transfer.

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