

**MEMORANDUM TO CLIENTS AND FRIENDS**

**June 4, 2004**

**The U.S. Department of Labor Issues**  
**Final COBRA Notice Regulations**

On May 26, 2004, the Employee Benefits Security Administration issued final regulations implementing the notice requirements as to the health insurance continuation rules incorporated as Section 606 of the Employee Retirement Income Security Act (ERISA) by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

The final COBRA regulations follow the rules proposed on May 28, 2003, and set forth the timing and content requirements of the notices that must be given by group health plans, employers, plan administrators, covered employees and their insured spouses, under ERISA Section 606.

For example, the final regulations establish a 90-day period for issuing the COBRA general notice, and set forth the basic COBRA information said notice must disclose, including the rights and responsibilities of qualified beneficiaries. The final regulations also establish a 60-day period for covered employees and qualified beneficiaries to give notice to the plan administrator of the employee's divorce or legal separation, the loss of a dependent's eligibility for coverage under the plan, and Social Security Administration disability determinations. The rules require the establishment of reasonable procedures to guide the covered employees and qualified beneficiaries in giving notice to the plan administrator. The final rules also establish the timing and content of election notices, and require that they be drafted in a manner that will be understood by plan participants. The regulations further require plan administrators to issue notices to certain individuals when it is determined that they are not eligible for continuation coverage or when continuation coverage is being terminated before the end of the maximum period of coverage.

With the final rules, the DOL provided model general and election notices that can be used by group health plans to assist them in complying with the COBRA notice requirements.

The final regulations apply to notice obligations that arise on or after the first day of the plan year beginning on or after November 26, 2004. Meanwhile, plan administrators may continue to

rely on the proposed regulations, although immediate compliance with the final rules is recommended.

If you have questions regarding the scope, effect or applicability of the new regulations, please contact the following attorney from our Employee Benefits Practice Group:

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