EMPLOYEE BENEFITS HIT HARD BY CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT

While most of the attention has been focused on evolving tax reform legislation, the Consolidated Omnibus Budget Reconciliation Act (COBRA) which became law on April 7, 1986 has had a great impact on employee benefits.

Effective for plan years beginning after June 30, 1986, employers with 20 or more employees will be required to provide identical continuation coverage to "qualified beneficiaries." These requirements apply to both insured and self-funded plans. Employers who don't comply risk losing their deduction for health care benefits contributions and the health care benefits or "highly compensated" employees will be subject to taxation.

"Qualified beneficiaries" who must be allowed to continue health care protection include previously covered family members of deceased, divorced, legally separated, or Medicare—eligible workers; employees who have separated from service (unless terminated for "gross misconduct") and their dependents; as well as employees whose hours have been reduced and their dependents. It would also include children who would normally lose coverage because they no longer qualify as eligible dependents under the plan. Continuation coverage may last for up to 36 months (18 months in the event of termination of employment or if hours were reduced).

Up to 102% of the cost can be charged to the person electing continuation coverage. Special rules apply to charges for coverage under a self—funding plan. Employers may either actuarially determine continuation costs or, use the cost for a similarly situated beneficiary for the preceding year with a cost of living adjustment (unless there has been a significant benefit change).

Qualified beneficiaries have up to 60 days to make the election after they become eligible. That means a qualified beneficiary may discover a need for the coverage after termination of service and still elect coverage within the 60-day period.

Both the employee and the employee's spouse must be notified of their rights to continuation coverage. The vehicle for notification is the Summary Plan Description. And additional notice requirement exists when a qualifying event such as death, disability, separation from service, or Medicare eligibility occurs. Employers must notify the plan administrator within 30 days of the qualifying event, and the plan administrator, in turn, must notify the employee or qualified beneficiary who is eligible for continuation benefits within another 14 days.

In other situations, such as a child becoming ineligible for plan benefits, divorce or separation, the burden of notice shifts to the qualified beneficiary. Failure to make proper notification can result in plan administrator liability of up to $100 a day. This obviously creates a need for careful coordination of communications.

Coverage can be discontinued if timely payments are not made to the plan, or the qualified beneficiary becomes covered under another group health plan because of employment or marriage.

We suggest that you contact your insurance carrier to assure this provision is in your contract. They should also be providing the Summary Plan Description referred to above.