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Prepared by Human Resources & Investor Solutions

DOL ISSUES FINAL COBRA NOTICE REGULATIONS

Final regulations establishing requirements for providing notices in connection with individuals' rights under COBRA were published in the *Federal Register* today. These regulations apply to notice obligations in plan years beginning on or after November 26, 2004, so calendar year plans will have to have them implemented by January 1, 2005.

The regulations are substantially similar to the proposed regulations issued last year (see our June 18, 2003 *For Your Information* http://www.mellon.com/hris/pdf/fyi_06_18_03a.pdf), but contain some clarifications and changes to make it easier for COBRA beneficiaries to understand their rights and to facilitate compliance by employers and administrators.

It is important to note that the new notice requirements outlined in the proposed regulations – notice of unavailability of COBRA coverage and notice of early termination of COBRA coverage – have been retained.

Some important clarifications in the new regulations include –

- If an individual needs to be provided an election notice within the initial 90-day period for providing the general COBRA notice, then it is not necessary to also provide the general notice.
- Plan specific information may be put at the end of the general notice and it need only identify a party from whom information can be requested (rather than both the plan administrator and COBRA administrator).
- In the absence of notice procedures, an oral notification may be given by a qualified beneficiary to any party that usually handles employee benefits – providing oral notice to any “officer” will not be an acceptable alternative.
- The COBRA election notice need not include information on alternative coverage and conversion rights.

The DOL states that until the regulations become applicable, it will consider compliance with either the proposed or final regulations as constituting good faith compliance.

We will be issuing a more detailed *For Your Information* on the final regulations in the near future.