

## **COBRA MYTHS**

### **MYTH NO. 1: ONE COBRA NOTICE COVERS BOTH SPOUSES**

**Reality:** In Underwood v. Fluor Daniel, Inc. 1997 U.S. App. Lexis 1410 (4th Cir. 1997), the court awarded statutory penalties to a dependent spouse who did not receive a separately addressed COBRA notice even though the reason the spouse lost continuation coverage was her failure to pay premiums.

### **MYTH NO. 2: PARTNERS ARE EMPLOYEES FOR ALL COBRA PURPOSES**

**Reality:** Under final IRS regulations, partners do not count as employees for purposes of the COBRA exemption for employers with fewer than 20 employees.

### **MYTH NO. 3: THERE-S NO SUCH THING AS STATE LAW CONTINUATION COVERAGE**

**Reality:** In Illinois, continuation coverage is required for group health plans, and such coverage can be required for up to ten years in the case of a 55 year old divorced or widowed spouse.

### **MYTH NO. 4: COBRA NOTICES ARE ONLY REQUIRED WHEN AN EMPLOYEE OR COVERED FAMILY MEMBER INCURS A QUALIFYING EVENT**

**Reality:** COBRA notices are also required when an employee or covered spouse first becomes eligible for group health coverage (this includes, as an example, a new spouse, who should receive a separate notice of COBRA rights when coverage begins).

### **MYTH NO. 5: COBRA REQUIRES INVOICES AND LATE PAYMENT NOTICES TO BE SENT TO EMPLOYEES ON CONTINUATION COVERAGE**

**Reality:** The only notice required in connection with a qualifying event is the statutory COBRA election notice. There is no duty to give any subsequent notices of premium due dates, non-receipt of payment, or any impending loss of coverage for failure to pay premiums. However, employers have to provide notice and an extended payment period if a COBRA beneficiary tenders a substantial partial payment of a premium for continuation coverage.

### **MYTH NO. 6: COBRA CONTINUATION COVERAGE ENDS AT AGE 65**

**Reality:** Continuation coverage ends when an employee or dependent on COBRA becomes entitled to Medicare. This means actual enrollment in the Medicare program not just attaining eligibility to enroll at age 65.

Andrew S. Williams  
Aronberg Goldgehn Davis & Garmisa  
One IBM Plaza, Suite 3000  
Chicago, Illinois 60611  
e-mail: awilliams@agdglaw.com  
(312) 755-3145