

Federal Stimulus Law Provides Premium Assistance For Cobra Continuation Coverage

March 11, 2009

The American Recovery and Reinvestment Act of 2009, signed into law by President Barack Obama on Feb. 17, provides assistance to involuntarily terminated employees and their families with the cost of continuing their group health insurance coverage under COBRA.

Specifically, any employee, who was or is involuntarily terminated during the period from Sept. 1, 2008 to Dec. 31, 2009, will only be required to pay 35 percent of the cost of COBRA coverage starting March 1 and continuing for up to nine months. This assistance is only available to an individual who:

- is involuntarily terminated (and/or their qualified dependants)
- qualifies for COBRA coverage
- elects COBRA coverage

If, at the end of the tax year during which assistance is received, the individual has a modified adjusted gross income exceeding \$145,000 (\$290,000 for joint filers), the amount of the premium reduction must be repaid. For those who earn between \$125,000 and \$145,000 (\$250,000 - \$290,000 for joint filers) the repayment amount will be proportionately reduced.

The other 65 percent of the premium is paid by the employer. However, the employer will receive a tax credit for all amounts paid in COBRA premium assistance. Specifically, line 12a on the Employer's Quarterly Federal Tax Return (form 941, as revised January 2009) permits employers to report the premium assistance payments it made for "assistance eligible individuals" who have paid their 35 percent premium to the employer.

By April 18, employers are required to notify all employees terminated on or after Sept. 1, 2008 of the right to receive assistance, including those who voluntarily resigned or who did not elect COBRA coverage or allowed it to lapse. It will be the employer's responsibility to determine whether an individual (and their family members) is disqualified due to a voluntary resignation and to notify the individual of this determination. Anyone turned down by the employer can seek an expedited review of the denial by the U.S. Department of Labor (DOL).

Former employees (and/or family members) who did not elect COBRA coverage, or whose coverage ended because payments were not made, will have 60 days following the notice of rights to elect coverage. However, the period of COBRA coverage will not extend beyond the original period of

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entitlement calculated from the qualifying event (normally the date employment terminated).

The DOL is required to provide further guidance by March 19. During the interim, employers should begin to determine who must receive a notice (i.e., all employees terminated on or after Sept. 1, 2008 and their qualified dependants) and who is qualified for the assistance (only those former employees who were involuntarily terminated, but not for gross misconduct, and their qualified dependants).

If you have any questions concerning the COBRA premium reductions, contact your Plunkett Cooney attorney.