



## ***ALERT***

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### **NEW COBRA OBLIGATIONS FOR EMPLOYERS TO TAKE EFFECT ON MARCH 1**

On February 17, 2009, President Obama signed into law the economic stimulus plan known as the American Recovery and Reinvestment Act of 2009 (ARRA). Under ARRA, employers and their third party benefit administrators (TPAs) have immediate work to do to comply with significant changes to the COBRA health benefit continuation rules.

To assist those who have become jobless, the federal government will temporarily subsidize 65% of the cost of COBRA health benefit continuation coverage. To be eligible, an individual must have been participating in his or her employer's group health plan at the time of termination and must have been involuntarily terminated (other than for gross misconduct) between September 1, 2008 and December 31, 2009. The subsidy is available for up to 9 months but may terminate sooner if the employee becomes eligible for coverage under another group health plan or other factors are met. The subsidy is available to those earning less than \$125,000 singly or \$250,000 as joint filers. The subsidy is phased out as adjusted gross income increases from \$125,000 to \$145,000 (or \$250,000 to \$290,000 if filing jointly). Those earning more than \$145,000/\$290,000 are not eligible for a subsidy and will be taxed for any subsidy improperly received.

Employers will need to initially pay the 65% subsidy on behalf of eligible employees. They will receive reimbursement from the federal government in the form of credits against their quarterly federal tax filings. Employers must be prepared to start paying such subsidized premiums as of March 1, the date on which ARRA becomes effective.

Additionally, employers and their TPAs will need to contact all employees who were involuntarily terminated since September 1, 2008, and provide them with notice about the opportunity to participate in the subsidized COBRA program. Even individuals who recently declined COBRA coverage prior to the passage of ARRA are entitled to the notice and to participate in the subsidized program. Individuals who have been involuntarily terminated since September 1 and who have been paying the full COBRA premium will be entitled to a reimbursement from the employer or a credit against future premium payments.

The Department of Labor will be issuing model COBRA notices by March 19 to aid employers and TPAs in providing adequate notices to individuals eligible for the subsidy. New COBRA notices must be issued to eligible individuals by April 18, 2009. Any eligible individuals who pay the full premiums between March 1 and the date they receive notice of the subsidy will be entitled to a credit or refund for the overpayment.

#### **Questions?**

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