

Brunini Employment and Labor News

COBRA REVISIONS EFFECTIVE IMMEDIATELY

Under the new American Recovery and Reinvestment Act of 2009, employees who were involuntarily terminated between September 1, 2008 and December 31, 2009 may be eligible to receive a reduced premium for COBRA continuation coverage. This change applies to employers with 20 or more employees.

Beginning March 1, 2009, eligible individuals will be allowed to pay 35% of the COBRA premium and the employer will be required to pay the remaining 65% of the premium. For the 65% share, the Act provides a subsidy that will be credited against the employer's payroll taxes. Tax advice should be sought by the employer since the type of health plan dictates whether the employer gets the tax credit or the plan gets the tax credit.

Employers are required to re-notify all employees who were involuntarily terminated during the designated period and to inform them of the new rules, even if they originally declined COBRA. The Department of Labor will provide model language for the notice soon since the re-notification must occur within 60 days of the signing of the Act (February 17, 2009). The employee will have a new 60 period in which to make the COBRA election.

In order to be an eligible employee, the employee must meet 4 criteria:

- Must be eligible for COBRA continuation coverage between September 1, 2008 and December 31, 2009;
- Loss of group medical coverage due to an involuntary termination of employment;
- Then (or now) elect COBRA continuation coverage; and
- Are not eligible to receive benefits from any other group health plan or Medicare.

Note that the employer subsidy is nontaxable to the employee, except for high income employees based on a sliding scale.

The Employment Newsletter is a publication of the Employment Law Group of the law firm of Brunini, Grantham, Grower & Hewes located in Jackson, Mississippi. The Employment Newsletter is not designed or intended to provide legal or professional advice, as any such advice requires the consideration of the facts of the specific situation.

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