

## COBRA Subsidy Eligibility and Duration under the American Recovery and Reinvestment Act (ARRA) Extended

December 2009

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On December 19, 2009, by signing the Fiscal 2010 Defense Appropriations Act, President Obama extended the time period for which involuntarily terminated employees would be eligible for a subsidy towards continuation of COBRA coverage and the maximum period for receiving such subsidy.

Earlier this year, with the enactment of the American Recovery and Reinvestment Act (ARRA), eligible individuals were provided with a reduction of up to 65% of premiums for COBRA coverage for up to 9 months after termination of employment. In order to be eligible for the temporary reduction in premiums, an individual must:

- have been involuntarily terminated (not for gross misconduct) between September 1, 2008 and December 31, 2009;
- otherwise have been eligible for COBRA coverage; and
- have elected COBRA coverage during the permissible timeframe to elect such coverage.

Under the original version of ARRA, for eligible individuals, the subsidy would have continued for up to 9 months, unless the individual is or became eligible for other group health insurance coverage (such as through a new employer's plan or a spouse's

plan) or Medicare. Additionally, if an individual earned more than \$125,000 (or \$250,000 for married couples filing a joint federal income tax return) during the year in which the individual may otherwise be eligible for the premium reduction, s/he may have to repay all or part of the premium reduction through an increase in his/her income tax liability for the year.

The December 19, 2009 Fiscal 2010 Defense Appropriations Act allows an otherwise eligible employee who is involuntarily terminated at any time between September 1, 2008 and **February 28, 2010** to receive a reduction in COBRA premiums and such reduction may continue for up to **15 months**. All other eligibility requirements, such as level of income, reason for termination and eligibility for other group health insurance coverage, remain the same.

As a result, all employers should identify all employees:

- who were involuntarily terminated after September 1, 2008, to ensure that such employees who qualified for premium reductions continue to receive the benefit of this recent extension;
- who have been given notice of involuntary termination, but have a termination date after December 31, 2009, to ensure that such employees are provided with appropriate COBRA election forms accurately reflecting the extensions in the COBRA premium reduction under ARRA; and
- who may have already received 9 months of the COBRA premium reduction under ARRA to ensure that the employer appropriately continue subsidy payments for an additional 6 months (where appropriate).

*The Labor, Employment, & Employee Benefits Group provides compliance advice, drafts policies, conducts training, and defends employers against workplace claims and litigation. For more information please contact a member of Burns & Levinson's Labor, Employment & Employee Benefits Group or email us at [clientservices@burnslev.com](mailto:clientservices@burnslev.com). If you have questions regarding this Update, please contact **Renee Inomata** at [rinomata@burnslev.com](mailto:rinomata@burnslev.com) or **617.345.3340**.*

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