

**Amy McLaughlin**

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**Subject:** Client Advisory - COBRA Premium Subsidy



To: Clients and Friends of the Firm

The American Recovery and Reinvestment Act of 2009, the financial stimulus law recently signed by President Barack Obama, made significant changes to COBRA continuation premium payment requirements. The changes apply to all employers that maintain a group health plan, regardless of whether they are currently subject to COBRA. A brief summary of the COBRA changes is set forth below:

- The Act provides a 65% subsidy for the cost of COBRA benefits for a maximum of 9 months for employees who lost health care coverage due to an involuntary termination of employment between September 1, 2008 and December 31, 2009.
- Subsidy-eligible employees are responsible for paying 35% of the COBRA premium, with employers paying the remaining 65% of the premium.
- The federal government will reimburse employers for the COBRA premium subsidy in the form of a credit against federal wage withholding and payroll taxes.
- Eligible employees who were terminated on or after September 1, 2008 and who were previously offered, but did not elect COBRA, are entitled to a second 60 day COBRA election period.
- Employers may offer subsidy-eligible individuals the option of receiving their COBRA coverage under another health plan with a lower premium cost.
- Plans must provide notices to subsidy-eligible individuals advising them of the availability of the subsidy, and the option to enroll in a different health plan, if permitted by the employer. In addition, plans must send notices of special election rights to subsidy-eligible individuals who previously declined COBRA.
- The subsidy applies to premiums paid on or after March 1, 2009.

If you would like to discuss these changes, please contact a member of the Employment Law Section of the firm:

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