

From the desk of Jeanne M. Kerkstra, Esq., CPA

Viewpoint

New COBRA Subsidy May Affect You!

Have you terminated any employees since September 1, 2008? Do you plan to terminate any employees before December 31, 2009?

If you have terminated any employees since September 1, 2008, or are planning any terminations before December 31, 2009, you may have obligations under the newly signed American Recovery and Reinvestment Act of 2009. Because Illinois has a COBRA-like continuation statute, even companies with less than 20 employees may have obligations.

The new stimulus bill signed by President Obama on February 17, 2009 provided temporary assistance to employees who were involuntarily terminated (with the exception of gross misconduct) between September 1, 2008 and December 31, 2009 in the form of a COBRA subsidy. These employees will be entitled to receive COBRA continuation benefits, if otherwise eligible, for 35% of their premium for a nine-month period. The subsidy will not extend their COBRA period. If, however, your terminated employee did not elect COBRA coverage, the law gives them another 60-day window to elect the coverage under this new statute. **The remaining 65% of their COBRA premium will be paid by you, the employer.** You will receive government reimbursement either by deducting the payments from your payroll taxes or by seeking direct reimbursement, entailing more forms and paperwork for you.

Critically, every COBRA-eligible terminated employee between September 1, 2008 and December 31, 2009 will need to receive a new COBRA notice. President Obama has instructed the Department of Labor to prepare model notices, but they will not be available until sometime in March. **By April 17, 2009, you must send the "second-chance" notices to employees terminated before February 17, 2009.** With the law's requirement that employers provide specific information to the employees, you should have them reviewed by a professional.

The law is complicated and has fast-approaching deadlines. For questions about the law or your obligations under it, please call me for answers.

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