EMPLOYEES INVOLUNTARILY TERMINATED AFTER SEPTEMBER 1, 2008, WHO ARE ELIGIBLE TO RECEIVE CONTINUATION OF HEALTH BENEFITS UNDER COBRA, WILL NOW ONLY HAVE TO PAY 35% OF THE PREMIUM DUE TO GOVERNMENT SUBSIDIES

The stimulus package, formally known as "The American Recovery and Reinvestment Tax Act of 2009" was signed into law on February 17, 2009. The statute allows employees that are laid off to continue their healthcare at a much lower cost, as it provides subsidies for employees who are involuntarily terminated. Under the Consolidated Omnibus Benefits Protection Act (COBRA) laid off employees are allowed to continue their health insurance coverage for up to 18 months (29 months if the employee is disabled at the time of termination), so long as the employee pays for the full cost of the premium. This is a burden that many terminated employees simply cannot afford. Under the new law, if you lost your job after September 1, 2008, and your family income is less than $250,000 a year ($125,000 for individuals), you will have to pay only **35%** percent of the premium for the first nine months. The federal government will pay **65%** of the health insurance premiums unemployed workers pay under the COBRA program, thus allowing many more individuals and families to keep the same health coverage they had while employed.

Employees and covered dependents who are (or were) covered under a group medical plan and who lose (or lost) coverage because the employee's employment ended due to an "involuntary termination" between September 1, 2008 and December 31, 2009 will be eligible to receive this COBRA subsidy. Although the legislation was aimed primarily at employees whose jobs are (or were) eliminated as a result of economic-related reductions-in-force, the statute's use of the term "involuntary termination" does not appear to distinguish between reductions-in-force and other types of involuntary terminations. However, if an employee was involuntarily terminated due to gross misconduct, under the original COBRA law, the employee is likely not entitled to these benefits.

The subsidy is equal to 65% of the monthly COBRA premium for the employee and his/her eligible dependents for up to 9 months. The subsidy applies to medical, dental and vision benefits. For instance, if a covered employee has elected COBRA coverage for medical, dental and vision benefits, with monthly COBRA premiums of $1,000, $150, and $50, respectively, under the new law the individual would be required to pay only $350, $52.50, and $17.50 per month to maintain coverage.

Employers will be responsible for notifying individuals who are eligible for the COBRA subsidy by April 17th. To give employers time to get set up for this new legislation, the employer may continue to require the COBRA covered individual to pay the full COBRA premium for coverage through that date. Thereafter, the employer must reduce the payment required from the employee to 35%.

Employees whose adjusted gross income (AGI) is between $125,000 and $145,000 ($250,000 to $290,000 for married couples filing jointly) will see a declining subsidy. Those employees whose AGIs are above these figures will not get any subsidy. If an individual receives this subsidy, and his/her applicable AGI exceeds the subsidy limit, the individual will be required to return the subsidy to the government (by adding it to his/her tax liability) when he/she files a tax return. The burden of determining income eligibility for the subsidy is on the employee, not the employer.

If an individual is eligible for the COBRA subsidy, that eligibility will continue for up to 9 months, or the date that the individual becomes eligible for Medicare benefits or health coverage under another group health plan (including a group health plan maintained by a new employer or a plan maintained by the spouse's employer). Individuals who are eligible for the COBRA subsidy and who become eligible for another group medical plan or Medicare are required to notify their prior employer that they are no longer eligible for the COBRA subsidy. If they fail to notify the employer and continue to receive the subsidy, they will be subject to a tax penalty of 110% of the subsidy when they file their tax returns.

Any employee who has been involuntarily terminated since September 1, 2008, and declined COBRA coverage, because it was too expensive or for any other reason, is now eligible to elect COBRA coverage and receive the subsidy even if they did not previously elect COBRA coverage. However, they can only receive the subsidy for 9 months or the end of the original COBRA period, generally 18 months, whichever is shorter.