

EMPLOYMENT LAW ALERT:
NEW LAW REGARDING COBRA CONTINUATION COVERAGE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

We'd like to make you aware of the recent changes to the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA, as a result of the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law by President Obama on February 17, 2009. If your Company's group health plan is subject to COBRA, the ARRA may affect you.

As you may have heard, the new ARRA provides for premium reductions and additional election opportunities for health benefits under COBRA. Eligible individuals will pay only 35% of the COBRA premiums and the remaining 65% will be reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage beginning on or after February 17, 2009, and last for up to nine months. For an overview of COBRA and the recent changes, visit our website at www.cwslaw.com.

There are also new COBRA notice requirements (and a new poster) that apply if any individual under your plan had a COBRA qualifying event on or after September 1, 2008. There are also additional COBRA election opportunities for certain individuals with qualifying events from September 1, 2008 through February 16, 2009.

WHAT YOUR COMPANY MUST DO NOW

The Department of Justice requires your company to take the following actions:

- **Inform** your company's employees of the changes to the law by circulating a notice regarding the new COBRA Continuation Coverage Assistance under the ARRA to all employees (we advise having each employee read the notice and sign a receipt acknowledging the same). The Department of Labor has prepared a model flyer that can be used for distribution with employees, which can be found at <http://www.dol.gov/ebsa/pdf/cobrastimulusflyer2.pdf>. **NOTICE:** The DOL requires that plan administrators provide notice about the premium reduction to individuals who have a COBRA qualifying event during the period from September 1, 2008 through December 31, 2009. Plan administrators may provide notices separately or along with notices they provide following a COBRA qualifying event. This notice must go to all individuals, whether they have COBRA coverage or not, who had a qualifying event from September 1, 2008 through December 31, 2009.
- **Inform** your company's current and former employees who are individuals eligible for the special COBRA election period described above of the new COBRA Continuation Coverage Assistance under the ARRA. The DOL requires that they also must receive a notice informing them of this opportunity. This notice must be provided within 60 days following February 17, 2009.

- **Post** the most recent COBRA poster, that was just issued by the Department of Labor on February 26, 2009, reflecting the changes made to the law. A model, new poster for use by employers can be found at <http://www.dol.gov/ebsa/pdf/joblossposter2.pdf>; and
- **Familiarize** the individual at your company administering the group health plan and COBRA as the DOL expects companies to comply with the new law