

Rothman Gordon Employment Law Alert

Economic Stimulus Plan Provides Expanded Rights to Certain Involuntarily Terminated Employees

It is unlikely that the Economic Stimulus Package ("Stimulus Package") passed by President Obama on February 17, 2009 has gone unnoticed by most Americans. While many of the details of the American Recovery and Reinvestment Act of 2009 may not affect our clients on a day-to-day level, one important part of the Stimulus Package temporarily provides additional rights for terminated employees. Because you have entrusted us to handle your employment matter, we wanted to advise you of the impact that the Stimulus Package may have on your situation.

COBRA, which stands for Consolidated Omnibus Business Reconciliation Act of 1985, applies to group health coverage for employers with 20 or more employees and generally provides an employee with the opportunity to continue the employee's group health plan coverage for a period of 18 months after a loss of coverage. Most often, this means that an employee who is terminated or resigns has the right to elect coverage under COBRA and to pay the premiums directly.

The Stimulus Package provides that the government will subsidize 65% of the cost of COBRA coverage for employees whose employment was *involuntarily terminated* between September 1, 2008 and December 31, 2009. Therefore, eligible individuals will be able to continue their health insurance coverage for 35% of the cost of the premiums for up to nine months from March 1, 2009. Whether an employee will receive a full nine months of the subsidized COBRA coverage depends on the particular facts of the employee's termination.

The full subsidy is available for individuals earning \$125,000 or less, or for joint tax filers who have a modified adjusted gross income of \$250,000 or less. Individuals who earn more than these amounts may receive the subsidy, but will have their income tax increased by some or all of the subsidy amount received.

If an employee was involuntarily terminated and did not elect COBRA coverage when it was first offered, the Stimulus Package requires an employer to re-offer COBRA coverage to that employee within 60 days of February 17, 2009. The employee will then have 60 days from the date COBRA coverage is re-offered to choose or decline coverage.

This temporary change to the COBRA provisions may affect individuals differently, depending on the facts of each situation. We invite you to contact a member of our Labor & Employment Department to determine how these changes may impact you.

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