

---

---

## Employers Jump as Federal Stimulus Package Stirs COBRA

*Todd K. Masuda*  
*April 2009*

The Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") generally enables former employees to maintain employer group health coverage for 18 months by paying continuation premiums at 102% of the cost of their group plan premiums. The federal stimulus package (officially, the American Recovery and Reinvestment Act of 2009) (the "Act") includes a temporary provision intended to make it easier for former employees to elect continuation of health coverage under COBRA, in effect requiring the federal government to pay for a 65% reduction of the employee's continuation premium for the first 9 months of continued coverage. The mechanism for shifting the cost - a payroll tax credit - depends on employers, who are immediately responsible for additional notice and reporting requirements.

### Covered Employers

The premium reduction rules apply to businesses covered by COBRA, which generally means businesses with 20 or more employees. The premium reduction also applies to smaller employers who offer comparable continuation coverage under State laws (in Ohio, R.C. § 3923.38).

### Covered Employees

The premium reduction is available only for employees who qualify for and elect to carry continuation coverage after involuntary termination occurring between September 1, 2008 and December 31, 2009, and for their qualified beneficiaries. The premium reduction is not available for employees who voluntarily terminate.

### Notice Requirements

Plan administrators must provide notification of the new law to any employee who qualifies for COBRA between September 1, 2008 and December 31, 2009. This includes notifying employees who terminated employment between September 1, 2008 and February 16, 2009, the date of the Act. The deadline for providing notice is April 18, 2009.

### Special Election

For employees terminated between September 1, 2008 and February 16, 2009, there is also a special election opportunity to elect continuation coverage and benefit from the premium reduction, provided that they make the election within 60 days of receiving notice and are covered by COBRA itself (not by state law).

### Reporting Requirements

Employers initially pay the 65% premium subsidy to their insurers (or accept 35% of the employee's premium, if self-insured). The premium reduction amount is not income to employees. The employer then reports the premium reduction amount on its IRS Form 941, the employer's quarterly tax return, as a credit.

## Work Opportunity Tax Credit

Another employer tax credit addressed under the Act is the Work Opportunity Tax Credit, which provides a tax credit of up to \$2400 per employee to businesses that employ members of nine "targeted groups." The Act adds two new targeted groups - unemployed veterans and youths not in school - in addition to loosening qualifications for other targeted groups such as ex-felons, and food stamp recipients.

---

---

*For more information on this article please contact:*

Todd K. Masuda  
216.696.4200  
tmasuda@ssrl.com

This paper is not intended to be exhaustive on the subject matter nor to provide legal advice to the reader.

1111 SUPERIOR AVENUE  
SUITE 1000  
CLEVELAND, OHIO 44114  
216.696.4200  
www.ssrl.com