

Economic Stimulus Significantly Impacts Human Resources.

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On February 17, 2009, President Obama signed the \$787 billion economic stimulus package, known as American Recovery and Reinvestment Act of 2009 (ARRA), into law. The White House estimates ARRA will provide the following economic stimulus, including creating or saving more than 3.5 million jobs over the next two years; advance computerizing Americans' health records, reducing medical errors and saving billions in health care costs; and provide an \$800 Making Work Pay tax credit for 129 million working households and cut taxes for the families of millions of children through an expansion of the Child Tax Credit.¹

The White House further estimates that ARRA "will create or save three to four million jobs, 90 percent of them in the private sector. It will provide more than \$150 billion to low-income and vulnerable households -- spurring increased economic activity that will save or create more than one million jobs."²

Perhaps the most significant human resources-related provisions that affect the greatest number of employees impacts Consolidated Omnibus Budget Reconciliation Act (COBRA) and unemployment compensation benefits.

ARRA apportions approximately \$20 billion for health insurance coverage to individuals participating in COBRA benefit continuation. As part of the legislation, a 65% subsidy for healthcare premiums will be provided by the government to laid-off workers for a period of up to nine months. To be eligible, the laid-off workers must have lost his/her job between September 1, 2008, and December 31, 2009. Additionally, the subsidy is available only to those employees who have no other source for healthcare benefits. The subsidy is phased out for individuals whose modified adjusted gross income exceeds \$125,000, or \$250,000 for those filing joint returns. Additionally, taxpayers with modified adjusted gross income exceeding \$145,000, or \$290,000 for those filing joint returns, do not qualify for the subsidy.³

Further, employees who previously did not elect COBRA are now provided a second opportunity to enroll the group healthcare continuation, and enrollment must occur within 60 days upon receipt of the COBRA coverage notice. The subsidy may be reportable income for some individuals on the 2009 tax return. Generally speaking, the subsidies begin March 1, 2009, but will not subsidize COBRA premiums paid between Sept. 1, 2008, and March 1, 2009.

To properly address the COBRA provisions of ARRA, plan administrator must promptly implement procedures to ensure immediate compliance. Policies and procedure providing guidance for providing the subsidy should be implemented. As a result of ARRA, eligible COBRA participants are now

¹ www.recovery.gov

² Id.

³ <http://www.irs.gov/newsroom/article/0,,id=204505,00.html?portlet=7>

required to pay only 35% as a result of the 65% government subsidy. Individuals who paid the full premium may be entitled to a refund for any overpayment as a result of the subsidization.

Likewise, eligible individuals should be notified of their eligibility. To ensure compliance, eligible employees should be notified of the benefits afforded to them under ARRA. Notification should include the benefit and election(s) for which the employee is eligible and the procedure for election of the subsidy. Additionally, eligible employees should be informed that there is now an additional opportunity to elect COBRA coverage.

As part of the administration of the COBRA provisions of ARRA, documentation must be maintained for the credit, including:

- Information on the receipt, including dates and amounts, of the eligible individual's 35% share of the premium;
- In the case of an insured plan, copy of invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA;
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to the eligible individuals;
- Attestation of involuntary termination, including the date of the involuntary termination for each covered employee whose involuntary termination is the basis for eligibility for the subsidy;
- Proof of each eligible individual's eligibility for COBRA coverage at any time during the period from September 1, 2008, to December 31, 2009, and election of COBRA coverage;
- A record of the Social Security numbers of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for 1 individual or 2 or more individuals; and
- Other documents necessary to verify the correct amount of reimbursement.⁴

ARRA also provides a nine month extension of unemployment compensation benefits for an additional seven weeks. Additionally, funding is provided to individual states to increase unemployment benefits by \$25 per week. It also appears that employee seeking part-time employment will be eligible for unemployment compensation benefits. Likewise, eligibility is also extended to employee whose employment ended for family reasons, such as health/illness of family members or required relocation of a spouse. Additionally, the stimulus package now exempts the initial \$2,400 received in unemployment compensation benefits. As a result, take-home pay by approximately \$13 per week for the average worker.

In summary, employers are encouraged to implement immediate policies and procedures to address the COBRA provisions of ARRA. Mr. Baker may be contacted with questions or concerns regarding compliance with this issue. He is also available to assist in the revision/drafting of policies.

⁴ www.shrm.org, www.irs.gov/newsroom/article/0,,id=204505,00.html?portlet=7