

February 19, 2009

Stimulus Bill Expands COBRA Benefits

The "Stimulus Bill," signed Tuesday February 17, 2009, lowered the cost of COBRA continuation coverage for employees whose employment was or is involuntarily terminated on or after September 1, 2008 and before January 1, 2010, and their eligible dependents (together referred to as "Assistance Eligible Individuals"). In addition, those Assistance Eligible Individuals who did not timely elect COBRA are given another opportunity to elect that coverage, although their total period of COBRA coverage generally is not extended. Starting in March, for a period not longer than 9 months, Assistance Eligible Individuals are only required to pay 35% of the COBRA premium payment under an employer's group health plan for periods after February 17, 2009. The other 65% is paid for by the Federal Government in the form of a credit against the employer's payroll taxes at the time the individual makes his 35% premium payment. This premium assistance benefit is phased out for high-income individuals.

If an Assistance Eligible Individual does not have COBRA coverage election in effect on February 17, 2009, he or she is permitted to elect COBRA coverage within 60 days of receiving appropriate notice from the plan administrator of the availability of the new subsidized COBRA premiums and the ability to elect COBRA coverage. Plans have until April 17, 2009 to provide this notice to those Assistance Eligible Individuals.

Employers must also amend their existing COBRA notices, or provide additional separate COBRA notices, to explain the new COBRA benefits to employees who are involuntarily terminated before January 1, 2010 and their dependents. The Treasury Department is to issue model notices within the next 30 days.

The new legislation also expanded the group of employees who are eligible for trade adjustment assistance (so-called "TAA Eligible Individuals") to include certain service sector workers and certain workers affected by offshoring or outsourcing to any foreign country. These TAA Eligible Individuals, as well as others who are TAA eligible, are given an extended period for COBRA coverage beyond the normal 18- and 36-month limits. Their COBRA coverage is extended until the earlier of the date they lose TAA eligibility or December 31, 2010. Finally, TAA Eligible Individuals had the tax credit for their COBRA premiums increased from 65% to 80%.

If you have any questions regarding the foregoing, please contact one of the attorneys listed below.

[Charles F. Plenge](mailto:charles.plenge@haynesboone.com)
(214) 651-5573
charles.plenge@haynesboone.com

[John M. Collins](mailto:john.collins@haynesboone.com)
(214) 651-5564
john.collins@haynesboone.com

[Greta E. Cowart](mailto:greta.cowart@haynesboone.com)
(214) 651-5592
greta.cowart@haynesboone.com

[Jesse J. Gelsomini](mailto:jesse.gelsomini@haynesboone.com)
(713) 547-2233
jesse.gelsomini@haynesboone.com

[Susan A. Wetzel](mailto:susan.wetzel@haynesboone.com)
(214) 651-5389
susan.wetzel@haynesboone.com

[Marilyn Doolittle](mailto:marilyn.doolittle@haynesboone.com)
(713) 547-2901
marilyn.doolittle@haynesboone.com

[Tiffany Walker](mailto:tiffany.walker@haynesboone.com)
(512) 867-8455
tiffany.walker@haynesboone.com

[James Williamson](mailto:james.williamson@haynesboone.com)
(214) 651-5224
james.williamson@haynesboone.com

[Kirsten Jensen](mailto:kirsten.jensen@haynesboone.com)
(214) 651-5171
kirsten.jensen@haynesboone.com

[Katy Zarolia](mailto:katy.zarolia@haynesboone.com)
(214) 651-5121
katy.zarolia@haynesboone.com

[Chris Kang](mailto:chris.kang@haynesboone.com)
(214) 651-5944
chris.kang@haynesboone.com

[Nellie Strong](mailto:nellie.strong@haynesboone.com)
(214) 651-5447
nellie.strong@haynesboone.com

[Case J. Darwin](mailto:case.darwin@haynesboone.com)
(713) 547-2216
case.darwin@haynesboone.com

[Brian K. Giovannini](mailto:brian.giovannini@haynesboone.com)
(713) 547-2025
brian.giovannini@haynesboone.com