

Health Law Bulletin

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FEDERAL STIMULUS BILL IMPACTS ARKANSAS' STATE GROUP CONTINUATION COVERAGE FOR TERMINATED EMPLOYEES

Small employers may not realize that the American Recovery and Reinvestment Act of 2009 (ARRA) also affects insurance costs under Arkansas State Group Continuation Coverage. Employers who have fewer than 20 employees are not covered by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA); however, their employees can obtain limited continuation of their group insurance coverage through the State of Arkansas Continuation Law. That law permits certain persons who had coverage under an employer's group insurance plan to extend their coverage for up to 120 days after employment termination.

ARRA makes the subsidy available to COBRA-covered persons available as well to those obtaining coverage under the Arkansas Continuation Law. Persons who were, or are, involuntarily terminated from their employment between September 1, 2008, and December 31, 2009, are eligible for a 65% federal subsidy of their state group continuation premium for no more than the 120-day period. Just as with the COBRA subsidy, if higher-paid former employees receive the subsidy, they may be subject to a recapture tax.

Former employees who qualify for the subsidy will pay 35% of the continuation premium, and the insurance carrier will "advance" the 65% subsidy on behalf of the government. The federal government later will reimburse the insurance carrier via a reduction in the carrier's federal payroll taxes. Former employees may not be asked to pay the full amount and then seek a refund.

If an eligible person's employment was involuntarily terminated on or after February 17, 2009, and the person declined to elect state continuation coverage or signed up for the coverage and then stopped paying premiums, the former employer must notify the former employee of an additional opportunity to elect state continuation coverage and receive the subsidy. You may wish to consult your attorney to make sure you have complied with the ARRA requirements for small employers.

Former employees become ineligible for the subsidy when he or she becomes eligible for new group health coverage or for Medicare.

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