

Lee & McShane, PC

Attorneys at Law

1211 Connecticut Avenue, N.W.
Suite 425
Washington, DC 20036
(202) 530-8100
Fax: (202) 530-0402
(800) 493-3483
WWW.LEEMCSHANE.COM

1401 Bank of America Center
100 South Charles Street
Baltimore, MD 21201-2725

The Adams Law Center
25 Wood Lane
Rockville, MD 20850

400 North Columbus Street
Suite 201
Alexandria, VA 22314-2264

6411 Ivy Lane
Suite 116
Greenbelt, MD 20770-1405

James F. Lee, Jr.
(202) 530-8101
Admitted in MD, DC and NY
E-Mail jfl@Lee-McShane.Com

April 7, 2009

VIA EMAIL ONLY

RE: American Recovery and Reinvestment Act of 2009

We are writing to alert you to a recent legal obligation for employers not generally publicized.

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (“the Stimulus Act”) was signed into law. The Stimulus Act provides a subsidy for COBRA premiums for employees who are involuntarily terminated between September 1, 2008 and December 31, 2009. Employers must provide an updated notice of COBRA coverage and subsidies to all employees who were terminated after September 1, 2008. Employers must provide this notice no later than April 18, 2009.

The Stimulus Act COBRA subsidy applies to:

- All employers subject to Federal COBRA laws: employers who employ more than 20 employees
- All DC and Maryland employers, regardless of the number of employees

Generally, COBRA laws only apply to employers with 20 or more employees. However, the Stimulus Act contains provisions for subsidized coverage for states that have enacted “mini-COBRA laws.” Prior to the enactment of the Stimulus Act, both Maryland and DC had enacted mini-COBRA laws which offered employees the opportunity to purchase continuation coverage. Virginia does not have a “mini-COBRA” law, so the COBRA stimulus only applies to Virginia employers with more than 20 employees. Additionally, while Federal COBRA coverage allows for continuation of family benefits, the mini-COBRA laws only apply to individual benefits.

Under the Stimulus Act, eligible employees must be offered:

- A subsidy of 65% of the costs of COBRA coverage
- Employees are required to pay 35% of the costs of COBRA. This cost must be paid by the employee. For example, the 35% cannot be paid by an employer as part of a severance package.

Lee & McShane, PC

Attorneys at Law

April 7, 2009

Page 2

For employers who employ more than 20 employees, making them subject to the Federal COBRA laws:

- The 65% subsidy must be paid by the employer.
- The employer can then seek a reimbursement of this amount from the federal government through a tax credit against its payroll taxes

DC and Maryland employers with less than 20 employees are not responsible for the 65% subsidy. Rather, the insurer providing the coverage will be responsible for the 65% subsidy and the insurer can take the tax credit.

For all coverage under the Stimulus Act, the subsidy is provided for a nine month period, unless the employee's COBRA coverage period ends prior to the expiration of the nine month period. After the nine month period expires, employees can continue receiving COBRA benefits if eligibility continues. At that point, the subsidy will end and employees will be responsible for paying 100% of the insurance premium.

The Stimulus Act COBRA coverage subsidy was effective February 17, 2009, and is effective for all COBRA premiums due from that date forward. If employers pay these premiums on a monthly basis, this would go into effect for March 1, 2009 premiums. If an individual covered under COBRA under the Stimulus Act has already paid these premiums, the employer is required to reimburse the individual for the overpayment or provide the employee with a credit towards the subsequent payments.

The U.S. Department of Labor has recently issued four model notices for employers. These can be obtained at <http://www.dol.gov/ebsa/COBRAmode notice.html>. The four model notices are for:

General Notice Plans: This notice is for all employers subject to the Federal COBRA provisions. Employers must send the General Notice to all qualified beneficiaries, not just covered employees, who experienced a qualifying event at any time from September 1, 2008 through December 31, 2009, regardless of the type of qualifying event, AND who either have not yet been provided an election notice or who were provided an election notice on or after February 17, 2009 that did not include the additional information required by ARRA. This full version includes information on the premium reduction as well as information required in a COBRA election notice.

Abbreviated General Notice: The abbreviated version of the General Notice includes the same information as the full version regarding the availability of the premium reduction and other rights under the Stimulus Act, but does not include the COBRA coverage election information. It may be sent in lieu of the full version to individuals who experienced a qualifying event during on or after September 1, 2008, have already elected COBRA coverage, and still have it.

Lee & McShane, PC
Attorneys at Law

April 7, 2009

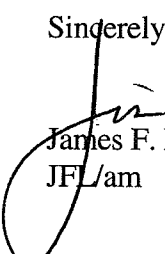
Page 3

Alternative Notice: This notice is to be provided to terminated employees who are not eligible for federal COBRA coverage, but who are eligible for COBRA coverage under a State's mini-COBRA laws, during the period September 1, 2008, through December 31, 2009

Notice in Connection with Extended Election Periods: This notice is to be provided to any eligible COBRA employee who had a qualifying event from September 1, 2008, through February 16, 2009, and either did not elect COBRA coverage at the time of the qualifying event, or who elected COBRA coverage, but subsequently discontinued COBRA coverage.

Please contact Elizabeth Pavlick at eep@lee-mcshane.com or (202) 530-8104 if you have additional questions or concerns related to the ARRA, COBRA coverage, mini-COBRA laws, or model notices.

Sincerely,



James F. Lee, Jr.

JFL/am