

### COBRA Subsidy Guidance



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On March 31, 2009, the Internal Revenue Service released Notice 2009-27 (<http://www.irs.gov/pub/irs-drop/n-09-27.pdf>) providing guidance on the premium subsidy available for continued health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986.

The notice provides 58 questions and answers, dealing with the COBRA subsidy. These topics include:

- involuntary termination,
- assistance eligible individuals (AEIs),
- calculation of premium reduction,
- coverage eligible for premium reduction,
- beginning of premium reduction period,
- end of premium reduction period,
- recapture of premium assistance,
- extended election period,
- payments to insurers under federal COBRA, and comparable state continuation coverage.

### Safeguarding Trade Secrets

Reductions in force are increasingly common. If an employee must be let go, an employer should take care not to allow the employee to walk out with the company's trade secrets, or other confidential information. Trade secrets, especially those stored electronically, are portable, making it very easy for terminated employees to walk away with trade secrets.

Before announcing a reduction in force, an employer should include in the employee handbook comprehensive trade secrets and technology policies.



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The employer's policy should include an explanation of what trade secrets are, why they are protected and what disciplinary action will result if they are compromised. The policy should also notify employees that use of electronic devices is subject to unannounced monitoring.

The company's exit procedures should ensure that each employee returns all company property, including laptop computers and all electronic storage media. Steps should be taken to ensure that data cannot be uploaded to Web sites that allow the transfer of large amounts of information easily via e-mail. In addition, no employee who is being let go should have access to work computers. Hard drives should be imaged and maintained for a specific period of time. Perhaps most importantly, if there is reason to believe a problem might arise, the particular employee's activities should be monitored.

Once employees have returned their electronic devices, the company's IT department should identify any potential problems, such as a hard drive that has been wiped clean. If potential problems are discovered, the IT department should refrain from further investigation because, in the event of litigation, evidence will need to be preserved. At this point, the company should consider whether the situation warrants the services of a forensic examiner.

Work force reductions are seldom a simple undertaking. Do not complicate matters by allowing trade secrets or other confidential information to follow departing employees. Keeping these tips in mind can help the company keep valuable information safely in house.

For more information concerning the new COBRA subsidy rules, or protecting your trade secrets please contact a member of our Labor and Employment law practice group at (419) 244-6788:

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