



## Who is Eligible for COBRA Continuation Health Coverage?

Employment, Labor & Benefits Practice Group

*Foster Swift Employment, Labor & Benefits Quarterly*

July 2009

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### **PRACTICE AREAS**

Employee Benefits

Health Care

There has been much discussion during the past several months about the American Recovery and Reinvestment Act ("ARRA") and its impact on COBRA continuation health coverage. ARRA provides for a 65% reduction in the premium otherwise payable by certain involuntarily terminated individuals and their families who elect COBRA continuation coverage. Employees facing other COBRA qualifying events are not eligible for the premium reduction. However, these employees are still eligible for standard COBRA coverage in which the employee is responsible for payment of 102% of the entire premium.

COBRA lists the following seven triggering events as qualifying events if the plan is subject to COBRA and the event results in a loss of health coverage:

1. Termination of the covered employee's employment other than by reason of gross misconduct. The termination may be voluntary, in which case the employee is responsible for 102% of the entire premium payment for the 18-month period of continuation coverage, or involuntary, in which case the employee is responsible for only 35% of the required premium payment for the 9-month subsidy period and 102% of the required premium for the remaining period of continuation coverage.
2. Reduction of hours of the covered employee's employment. If a reduction in hours that occurs between September 1, 2008 and December 31, 2009, is involuntary and reduces the employee's hours to zero hours, then the employee is eligible for the premium reduction. If the reduction in hours is voluntary or is a reduction to more than zero hours, then the employee will generally be responsible for 102% of the entire premium payment if he or she elects COBRA coverage. In some cases, the reduction in hours leads to a voluntary termination for "good reason". Such terminations are eligible for the premium reduction.



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The following triggering events entitle each qualified beneficiary to up to 36-months of continuation coverage (a longer period in the event of the employer's bankruptcy) and are not eligible for the 35% COBRA subsidy.

1. Divorce or legal separation of the covered employee from the employee's spouse.
2. Death of the covered employee.
3. A dependent child ceases to be a dependent under the generally applicable requirements of the plan.
4. A covered employee becomes entitled to benefits under Medicare.
5. An employer's bankruptcy, but only with respect to health coverage for retirees and their families.

Certain other events, not listed above, may lead to a loss of health coverage. However, because the other events are not included in the list of seven COBRA triggering events, those events do not entitle the employee to COBRA coverage. For example, the employer may adopt an amendment to its group health plan that effectively causes the loss of health coverage for some employees. If this loss of coverage is due simply to the plan amendment and not to one of the seven triggering events identified above, then the employee is not entitled to COBRA continuation coverage.