

BENEFIT

Plan Developments



A report covering plan design and legislative changes

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Stimulus Legislation Affects Employers And Workers

A sweeping \$787 billion stimulus package aimed at reinvigorating the flagging U.S. economy was signed into law by President Barack Obama on February 17. The American Recovery and Reinvestment Act of 2009 (ARRA) was designed to create jobs, encourage consumer spending, improve essential infrastructure, and strengthen the safety net for Americans affected by the recession. The legislation includes a number of provisions that affect employers and workers, including additional tax relief for the unemployed, subsidies for COBRA benefits, transit benefit parity for employees, an expansion of a tax credit for employers who hire disadvantaged workers, and a tax credit for all employees paid through a reduction in payroll withholding levels.

Generally, unemployment benefits are considered taxable income. For 2009 only, the new law allows recipients to exclude from taxable income the first \$2,400 in unemployment benefits. ARRA also extends the Emergency Unemployment Compensation program, which had been due to expire at the end of March, until

December 31, 2009. The program provides up to 33 weeks of benefits to unemployed workers. Under the legislation, weekly benefit payments will rise by \$25 per week.

ARRA also subsidizes the cost of health care coverage provided under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), which allows individuals to remain enrolled in their company health plan for a period of time after leaving a job. Previously, terminated employees were required to cover the full cost of the health plan premiums themselves. Under the new law, workers who are involuntarily separated from employment between September 1, 2008 and January 1, 2010 are given the option of paying just 35% of the cost of COBRA coverage for up to

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nine months. The former employer will be required to pay the remaining 65%, but will be reimbursed by the government through a payroll tax credit.

The COBRA premium assistance under ARRA applies to all group health plans currently subject to COBRA, as well as to all forms of health care continuation coverage required by each state. Individuals with higher incomes (starting at \$125,000 for the taxable year) will be required to repay all or a portion of the premium subsidies.

Under the “Making Work Pay” provision of ARRA, wage earners and the self-employed are permitted to claim a credit equal to the lesser of 6.2% of earned income, or up to \$400 a year for single filers or \$800 a year for married couples in 2009 and 2010. However, the credit begins phasing out at an adjusted gross income (AGI) of \$75,000 for singles and \$150,000 for couples filing jointly. Rather than sending out these rebates in the form of checks, the Internal Revenue Service (IRS) will allow workers to adjust the amount withheld from each paycheck or to claim the sum when filing their taxes. Self-employed people will be permitted to lower their estimated tax payments in 2009 and 2010.

Starting in March, the new law increases the amount that may be excluded from the taxable income of employees used to pay for qualified mass transit and van pools to \$230 per month, up from \$120 previously. This sum of \$230 is equal to the tax-free benefit for parking that employers may provide per employee, per month through a qualified transportation plan.

In addition, the Work Opportunity Tax Credit (WOTC), which provides businesses that hire members of certain “targeted groups” with a credit of up to \$2,400 per employee, is broadened under the provisions of ARRA to include unemployed veterans discharged between 2008 and 2010, and “disconnected youth,” or young people between the ages of 16 and 25 who have not been regularly employed or in school over the previous six months.

Congress Explores Family-Friendly Workplace Policies

The House Committee on Education and Labor’s Subcommittee on Workforce Protections conducted a hearing on March 3 to explore the issue of whether family-friendly policies—such as grants to support state paid leave programs, paid leave, expansions to the Family and Medical Leave Act (FMLA), and paid sick days—make sound economic sense in light of changing market conditions.

At the hearing, entitled “Encouraging Family-Friendly Workplace Policies,” Rep. Tom Price (R-GA), the top Republican on the subcommittee, argued that workplace flexibility, particularly voluntary policies adopted by employers, can provide great benefits to working families and the companies that employ them.

“Workplace flexibility and work/life benefits have become a bottom line issue for many companies, becoming critical components of workplace effectiveness and attracting human capital,” Price said. “Research has shown that such programs can boost motivation, productivity, and morale for workers, and I would suggest that most employers understand the effectiveness and necessity of having a family-friendly workplace.”

Price added, however, that “as we engage in policy discussions about workplace benefits and coverage, we must not ignore the implications of placing costly government-imposed mandates on employers, many of whom are small businesses trying to stay afloat in the current economic climate.”

In her testimony before the subcommittee, Michelle Bernard, president of the Independent Women’s Forum, said, “I’m a big believer in family-friendly workplaces. But government mandates are the wrong way to get us there. The best way is to encourage a thriving economy that offers workers numerous job opportunities so

that we can negotiate arrangements that make sense for our unique situations.”

Bernard recommended that the government help women entrepreneurs by encouraging more job creation and making it easier for women to start businesses of their own. In particular, she advocated simplifying the tax code and reducing regulations that drive up costs and make doing business more complicated and expensive.

The subcommittee also heard from Eileen Appelbaum, professor at the Rutgers University School of Management and Labor Relations. Appelbaum emphasized that, even during a recession, family-friendly policies like paid sick and family leave remain essential. “Paid sick day policies and family leave insurance enable ill workers to take time off from work to care for themselves, reduce the spread of disease to co-workers and customers, and offer substantial savings to employers by reducing turnover and minimizing absenteeism,” she said.

Thus, Appelbaum argued, a minimum of seven paid sick days per year should be a universal employment standard in the U.S. “It is in no one’s best interest to have employees come to work when they have a bad cold or the flu,” she noted, “And, indeed, a majority of employers do provide their workers with paid sick days. It can, however, be difficult to implement paid sick days if the companies with which you compete do not do likewise.”

Heather Boushey, senior economist at the Center for American Progress Action Fund, observed in her testimony that, during a recession in which large numbers of men are losing their jobs, “families will increasingly rely on women’s earnings, which are typically lower than men’s and are less likely to come with health insurance.”

Boushey noted that many women currently work in part-time positions, which usually offer fewer benefits. To help families without adequate paid leave benefits, she recommended that Congress consider legislation that provides discretionary grants to states to implement pro-

grams that provide partial or full wage replacement for employees taking leave for birth or adoption, or for those who are taking leave to care for themselves, their children, spouse, or parent with a serious health condition, as defined by the FMLA.

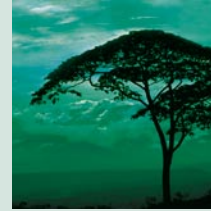
“Families are facing a tough economy,” Boushey concluded. “For many, the challenges of balancing work and family have only grown: With jobs scarce, workers are in greater need of family-friendly policies, especially those that ensure job protection.”

Obama Announces Health Care Reform Initiative

At a White House forum dedicated to exploring solutions to the nation’s rising health care costs and growing numbers of citizens who lack adequate health insurance, President Barack Obama announced on March 5 that he aims to press Congress to pass major health care reform legislation before the end of the year.

Deflecting criticism that now is not the time to address the issue given the current economic climate, Obama suggested that health care reform is a fiscal imperative. “If we want to create jobs and rebuild our economy and get our Federal budget under control, then we have to address the crushing costs of health care this year in this administration,” the President said.

These costs, President Obama added, are not only straining the budgets of families, but are also weighing down businesses and eating up government budgets. “Too many small businesses can’t insure their employees. Major American corporations are struggling to compete with their foreign counterparts, and companies of all sizes are shipping their jobs overseas or shutting their doors for good.”



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Over the last eight years, Obama noted, health insurance premiums have grown four times faster than wages, while an additional nine million Americans have joined the ranks of the uninsured. He added that the cost of health care now causes a bankruptcy in America every 30 seconds. Meanwhile, he added, Medicare costs are consuming the Federal budget, and the cost of Medicaid is overwhelming state budgets.

The President observed that his administration had already begun improving the health care system by signing into law additional funding for state-sponsored health care for children and for subsidizing insurance premiums for laid off workers, as well as by committing funds to preventive care, cancer research, and the creation of a system of electronic medical records. As part of his budget plan released in February, Obama allotted \$635 billion as an initial earmark for reforming the health care system.

The President did not insist that the health care proposals advocated during the campaign are the final word on the issue. During his candidacy, Obama said he would establish a public insurance program, similar to Medicare, that would compete with private insurance companies. Under his proposal, employers would be required to contribute to the cost of health care coverage or make payments to the public program.

However, Obama emphasized that people should be allowed to keep their current insurer and physician if they are satisfied with the care they are receiving. The President said, "I think most of us would agree that, if we want to cover all Americans, we can't make the mistake of trying to fix what isn't broken."

Commenting on President Obama's announcement at the forum, Karen Ignagni, president and CEO of industry

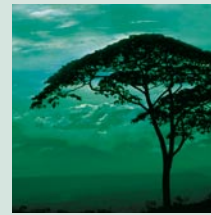
group America's Health Insurance Plans (AHIP), said, "By bringing together a broad range of policymakers and stakeholders for thoughtful discussion on access, cost, and quality, the President has initiated a transparent, inclusive reform process."

Ignagni noted that AHIP strongly supports the recently enacted children's health care legislation, as well as the health care safety net funding, health IT investments, and comparative effectiveness provisions in the President's economic recovery program.

Dan Danner, president and CEO of the National Federation of Independent Business (NFIB), noted that small firms have seen premium increases of nearly 113% since 1999, and those small businesses that continue to provide insurance pay an average of 18% more in health insurance premiums for the same benefits as the largest firms. "We look forward to continuing today's conversations and working with the President, his administration, and Congress to find solutions for small business," Danner added.

Senate Republican leader Mitch McConnell of Kentucky said that health care reform should not be a partisan issue, and he was encouraged by the bipartisan talks that took place at the forum. However, he cautioned, while Republicans stand ready to help lower costs and get better value for every dollar spent on health care, they "are equally committed to stopping the creation of additional unfunded liabilities which threaten the long-term sustainability of any health care reform."

McConnell continued, "Both sides have good ideas, and I am confident we can make progress toward ensuring all Americans have access to quality, affordable health care if we continue to work together."



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