

# Benefits Buzz

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**Key Issues Facing Business Owners**



## DID YOU KNOW?

Lilly Ledbetter was a former supervisor for an Alabama Goodyear Tire & Rubber Co. who left Goodyear in 1998. She sued the company after receiving an anonymous note informing her that she made 15 to 40 percent less than her male counterparts. The Supreme Court had ruled that she should have complained after the first discriminatory paycheck she received, even though she had no way of knowing that she was not receiving equal pay.

## Lilly Ledbetter Fair Pay Act Signed

On January 29, 2009, President Obama signed the Lilly Ledbetter Fair Pay Act. The Ledbetter Act takes effect as if it was enacted on May 28, 2007. The key provision of the Act is as follows:

- The 180-day statute of limitations for pay discrimination starts to run from the most recent date on which the employee was affected by a discriminatory act (i.e. the receipt of a paycheck), thereby overturning a U.S. Supreme Court decision holding that the statute of limitations for filing an equal-pay lawsuit began on the date the allegedly discriminatory act started. This change allows lawsuits by plaintiffs who allege ongoing pay discrimination but who do not discover it until years after the discrimination began.

### What Does This Mean for Employers?

- 1) Employers should review their pay practices – including wage scales and policies – related to wage increases. Identify similarly employed individuals along with material differences in pay.
- 2) To reduce the risk of liability, correct pay differences that are not supported by legitimate business factors.
- 3) Train supervisors to ensure that future pay increases are based on legitimate business factors.
- 4) Consult legal counsel when faced with a pay discrimination charge, and create strategies to reduce claims in the future.

## Action Required to Implement Stimulus Act Changes to COBRA Coverage

The new COBRA provisions established by The American Recovery and Reinvestment Act of 2009 (ARRA) require employers and plan administrators to take prompt action to implement the new COBRA procedures. Generally, plan administrators and employers should take the following action now:

1. Review records to identify all employees who became entitled to elect COBRA, including those who voluntarily resigned or were involuntarily terminated from employment since September 1, 2008;
2. Update COBRA materials to comply with the new requirements;
3. Determine whether to permit individuals to elect a different health plan option when electing COBRA coverage;
4. Review severance policies to revisit the issue of any employer COBRA premium contributions;
5. Notify the appropriate individuals of their new rights and responsibilities under ARRA (e.g., additional notification to all individuals whose employment terminated since September 1, 2008, extended election period to eligible individuals);
6. Develop processes and procedures for the administration of the COBRA subsidy; and
7. Keep informed about the status of the soon to be released model forms and regulations.