

Client Alert Applies To: Self-Funded, Fully-Funded, Large Group, and Small Group

April 9th, 2021

DOL Issues FAQs About and Model Forms for the American Rescue Plan Act COBRA Subsidy

On April 7, 2021, the U.S. Department of Labor (DOL) issued [FAQs](#)¹ and [model notices](#)² for the COBRA premium assistance provisions of the American Rescue Plan Act (ARPA). The subsidy is available from April 1, 2021 through September 30, 2021, to assistance eligible individuals (AEIs) who are eligible for and elect COBRA coverage—or comparable state continuation coverage—because of their own or a family member’s reduction of hours or involuntary termination of employment. The FAQs provide general information and clarifications, while the model notices provide templates to help employers satisfy new notice requirements. Here are highlights:

- **Eligible Individuals.** Under ARPA, an AEI’s qualifying event must be (1) an involuntary termination of employment; or (2) a reduction of hours. Q/A-3 makes clear that a reduction of hours, whether voluntary or involuntary, triggers the subsidy. A reduction of hours includes “reduced hours due to a change in a business’s hours of operations, a change from full-time to part-time status, taking of a temporary leave of absence or an individual’s participation in a lawful labor strike, as long as the individual remains an employee at the time that hours are reduced.” Prior to this guidance, many had assumed a reduction of hours must be involuntary to trigger subsidy eligibility. Individuals who are eligible for Medicare or other group health coverage (excluding excepted benefits, QSEHRAs, or health FSAs) are ineligible for the subsidy. And employees terminated for gross misconduct are ineligible for both COBRA and the subsidy.
- **Extended Election Period.** Q/A-5 explains that qualified beneficiaries who experienced a reduction of hours or involuntary termination of employment prior to April 1, 2021, but either did not elect COBRA when it was first offered or elected COBRA but later dropped it, are eligible for the additional election period. Such individuals must be notified of this opportunity by May 31, 2021 and have 60 days after the notice is provided to elect COBRA. Individuals can begin their coverage prospectively from the date of their election or choose to start their coverage as of April 1, 2021, even if they receive notice and make their election at a later date.

- **Outbreak Period Extensions.** Q/As-5, -10, and -13 clarify that the COVID-19 “outbreak period” relief providing extensions of some COBRA deadlines does not apply to the notice or election deadlines related to the ARPA subsidy.
- **Administrative Fees.** Q/A-9 confirms that the subsidy will cover the 2% administrative fee that is typically included in the COBRA premium

The new model notices released by the DOL are the following:

- Model General Notice and COBRA Continuation Coverage Election Notice
- Model Notice in Connection with Extended Election Period
- Model Alternative Notice
- Model Notice of Expiration of Premium Assistance
- Summary of COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021 (to be provided with the General Notice)

The model notices can be accessed in PDF or WORD format here:

<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>

¹ <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/cobra-premium-assistance-under-arp.pdf>

² <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>

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