

American Rescue Plan Act (ARPA)

Employers Overview of COBRA
Election & Premium Assistance

Under the American Rescue Plan (ARPA), the Biden administration has set aside \$10 billion dollars for premium assistance to anyone participating, or eligible, for either COBRA or state continuation.

Section 9501: Preserving Health Benefits for Workers (COBRA Eligibility Changes)

This law provides up to six months of fully subsidized COBRA premiums, for eligible COBRA and state continuation qualified beneficiaries.

It imposes new notice requirements on employers; and importantly, it provides for a corresponding tax credit for the company or entity paying for the COBRA premium subsidy.

KEY POINTS

Effective Date:

- Apr. 1, 2021 – Sept. 30, 2021

First Employer Notice Due

- No later than May 31, 2021

Eligibility

- Individuals who lost employer - sponsored coverage EXCEPT in the case of gross misconduct

Applicability

- All group health plans subject to COBRA and state continuation

Who is Eligible for Premium Assistance?

- Any Assistance Eligible individuals who will/have incurred state continuation premiums between April 1 and September 30, 2021
- Assistance Eligible Individuals are those who meet the following:
 - State continuation eligibility between November 1, 2019 and September 30, 2021, even if they had not previously elected COBRA
 - Individuals who elected COBRA and cancelled before the end of their term
 - Individuals who lost employer sponsored coverage due to:
 - an involuntary termination of employment (except in the case of gross misconduct)
 - a reduction in hours
 - Individuals who enroll in COBRA coverage as of April 1, 2021 or who elect COBRA coverage during the 60-day period following the date they are notified of their eligibility for a premium subsidy and corresponding benefit election
 - Eligibility for Medicaid or Marketplace assistance does not make you ineligible for COBRA or for the premium subsidy

Who is Not Eligible for Premium Assistance?

- Individuals who become eligible for other group health coverage such as through a new employer's plan or a spouse's plan
- Individuals eligible for Medicare

Applicability

This applies to any group health plan subject to federal COBRA and state continuation programs that offer benefits similar to COBRA.

KEY POINTS

Excepted Benefits

There are four categories of excepted benefits they are:

- Non-health coverage i.e., AD&D, disability, workers compensation
- Limited health benefits i.e., dental, vision, long-term care
- Specific disease or illness coverage i.e., cancer insurance or hospital indemnity
- Supplemental health benefits

Employer Notice Requirements

- Notice of eligibility for premium subsidy
- Election notice
- Notice of Expiration
 - Due 15-45 days before the date of expiration

Duration of Subsidy

The COBRA premium subsidy will expire on the earlier date of:

- the last day of the individual's 18-month COBRA period
- eligibility for Medicare, a flexible spending account (FSA), a qualified Small Employer Health Reimbursement Arrangement (QSEHRA) or any other group health plan. With the exception of excepted only health benefits coverage
- September 30, 2021

Option to change plans.

If an employer offers multiple plans, individuals may have the option to select a plan different than the one they had prior to their qualifying event.

This option applies if:

- the employer permits this type of enrollment change
- the premium does not exceed the premium of the individuals existing coverage
- other active employees in the same classification have the option to enroll in the plan
- the individual elects a plan change within 90 days of the plan enrollment date and is not:
 - enrolled in coverage that provides only excepted benefit
 - a Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)
 - a flexible spending account

Employer Notice Requirements

The law requires employers to provide the following notices:

- Notice of eligibility for premium subsidy - employers must provide a notice to all Assistance Eligible Individuals (AEI's) within 60 days of the date of enactment (no later than May 31, 2021). Plan sponsors may meet this requirement by amending their current COBRA election forms or including a second document with the notice
- Election Notice - to those who are newly eligible
- The final notice is Notice of Expiration, which notifies an individual that their premium assistance is ending (whether due to the expiration of their COBRA continuation coverage or the expiration of the period of premium assistance). This notice is NOT required for individuals whose premium assistance is ending because they became eligible for another group health plan or Medicare. Employers must provide this notice within the period that is 15 to 45 days before the date of expiration.

KEY POINTS

Unless otherwise specified, these notice requirements are in addition to the standard notification requirements provided under COBRA. They do not replace any of the other standard COBRA obligations. Model notices can be found at the DOL website or you may request them from your Parrott Client Service Specialist.

Assistance Eligible Individual (AEI) Requirements

Under Section 6720C individuals receiving a COBRA premium subsidy are required to notify employers when they become eligible for other group health coverage or Medicare thus making them no longer eligible for premium assistance.

Penalties for non-compliance:

- Individuals who fail to notify employers when they are no longer eligible may pay a penalty of \$250
- If failure to notify is intentional or fraudulent, the penalty is equal to the greater of \$250 or 110% of the premium assistance after termination of eligibility
- The penalty may be waived if it is shown that the failure is due to reasonable cause and not willful neglect

Employer Reimbursement of COBRA Subsidy

(Section 6432 Continuation Coverage Premium Assistance)

Employers will be allowed to take a tax credit against COBRA premiums paid on or after April 1, 2021.

- Employers may take a credit against their hospital insurance taxes (§ 3111(b)) for each calendar quarter and amount equal to the premiums not paid by AEIs for such coverage
- The credit may not exceed the total tax imposed under § 3111(b) with respect to the employment of all employees of the employer
- If the credit exceeds the limit for any calendar quarter, it will be treated as an overpayment that shall be refunded
- In anticipation of the credit, the credit may be advanced, including the refundable portion, up to an amount calculated through the end of the most recent payroll period in the quarter
- includes the government of any State or political subdivision, any Indian tribal government, any agency, or instrumentality of any of the foregoing, and any agency or instrumentality of the Government of the United States that is described in section 501(c)(1) and exempt from taxation under section 501(a)

Employer Reimbursement

Employers will be allowed to take a tax credit against any COBRA premiums paid for Assistance Eligible Individuals

Resources

DOL Model Notices

www.parrottinsurance.com/covid-19-resources

Parrott Client Service Specialists

(336) 249-7705

KEY POINTS

Parrott Insurance & Benefits

(336) 249-7705

Definitions

- Qualified Beneficiaries (QB) – Any individual who meets the qualification for COBRA
- Assistance Eligible Individuals (AEIs) – A qualified beneficiary who meets the following requirements during the period starting April 1, 2021 to September 30, 2021
 - is eligible for COBRA
 - elects COBRA