

COBRA Premium Assistance under the American Rescue Plan Act of 2021

The American Rescue Plan Act of 2021 (ARPA) was signed into law on March 11, 2021. Part of this relief package includes a new COBRA subsidy that covers the full cost of continuation coverage for assistance eligible individuals (AEIs) beginning April 1, 2021, and ending on September 30, 2021. The subsidy is designed to provide assistance for struggling workers.

Individuals falling into the following three categories are eligible for this subsidy if they lost their health insurance benefits through involuntary termination (other than gross misconduct) or a reduction in hours any time after November 1, 2019:

- 1) Anyone who currently has COBRA coverage;
- 2) Any employee that becomes eligible for COBRA between April 1, 2021, and September 30, 2021; or
- 3) Anyone who became eligible for COBRA after November 1, 2019, but waived coverage immediately, or before their COBRA eligibility period ended (typically 18 months)

Employees who voluntarily ended their employment are not eligible for the subsidy. Employees who are initially eligible for the subsidy will lose their eligibility if 1) they become eligible for health insurance under a new plan (whether or not they enroll in that plan) or 2) they reach the date in which their COBRA coverage normally expires. The subsidy only covers the cost of the health insurance premiums—not copays, deductibles, or co-insurance—and is non-taxable for eligible individuals.

Under the ARPA, a terminated worker who is eligible for assistance and who hasn't elected COBRA coverage by April 1, 2021, or who elected COBRA coverage but then discontinued it, may elect COBRA coverage during a special enrollment period starting April 1 and ending 60 days after the date on which the COBRA notification was delivered.

Employers will obtain the subsidy through a payroll tax credit against employers' quarterly taxes, and will be responsible for paying health insurance carriers for the COBRA premiums. Both fully insured and self-insured group health plans subject to federal COBRA are eligible for the credit against their Medicare FICA payroll taxes, and must provide the COBRA premium subsidy to AEIs who have elected COBRA coverage, starting April 1.

In order for an employer to be eligible for the subsidy, the following conditions must be met:

- If an employee or former employee who qualifies for COBRA coverage and the subsidy makes a premium payment for a month covered by the subsidy, that payment must be reimbursed within 60 days of receipt.
- Additional employee notice requirements must be provided to the employee or former employee. These notices will include typical COBRA details as well as the special provisions outlined in ARPA, they must be delivered to qualifying potential participants within 60 days of their qualifying event (and beginning April 1), and the expiration date of the subsidies must be communicated within 45 days.

In addition to providing the required notices, plan sponsors of group health plans should consider whether they will permit individuals to enroll in a different—but not more expensive—plan option than the one in which they were enrolled when coverage was lost.

Additional resources and information on this topic:

COBRA Premium Subsidy Webpage

<https://www.dol.gov/COBRA-subsidy>

COBRA Premium Assistance under the American Rescue Plan Act of 2021 FAQs

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

Model General Notice and COBRA Continuation Coverage Election Notice

<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-general-and-election-notice.docx>

Model Notice in Connection with Extended Election Period

<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-extended-election-periods-notice.docx>

Model Alternative Notice

<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-alternative-election-notice.docx>

Model Notice of Expiration of Premium Assistance

<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/notice-of-premium-assistance-expiration-premium.docx>

Summary of COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021

<https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/summary-of-provisions.docx>

Full text of the Bill

<https://www.congress.gov/117/bills/hr1319/BILLS-117hr1319enr.pdf>