

2021 ARPA Compliance

What Do Employers Need to Do?

If you are subject to COBRA...

This article is specifically for groups that are required to comply with COBRA. In general, this applies to groups of 20 or more total full-time equivalent employees. If you're not sure if you are subject to COBRA, please feel free to contact your broker representative.

Since the American Rescue Plan Act was signed into law on March 11, 2021, the impacts on COBRA were not fully understood until recent guidance was released. We will review the eligibility, the model notices (which are now available), and update the timeline for notification and premium assistance as it relates to COBRA.

As previously stated in the initial review of ARPA, Assistance Eligible Individuals (AEI) will receive 100 percent subsidy for their COBRA premiums under two circumstances:

- Employee was involuntarily terminated. (Doesn't apply to employees terminated due to gross misconduct.)
- Employee's hours were reduced by an amount triggering the employee's loss of eligibility for benefits.

This applies to employees, spouses, and dependents with a qualifying event between November 1, 2019 to present because they are still within their 18-month period of coverage. Individuals who previously declined COBRA are eligible as long as their 18-month coverage period has not expired. In addition, individuals who elected and are currently on COBRA or who elected and later dropped COBRA are eligible as long as their 18-month coverage period has not expired. The AEI ceases to be eligible for the premium subsidy if they become eligible for other group health coverage through a new employer, a spouse's plan, or with Medicare.

Employers are required to notify AEIs of their rights under ARPA by May 31, 2021. The new model notice for those currently on COBRA and AEI's who are eligible is available on the DOL.gov site. However, if you have a COBRA Administrator, they may have already reached out to you and/or handled this on your behalf. If your COBRA is administered by an insurer, see the RESOURCES section for a grid by carrier and plan type that explains what each insurer is doing to help employers comply, and who ultimately files and receives the tax credit.

It's important that employers begin immediately identifying their list of eligible terminated employees to assist the carrier/vendor, if applicable, with the notification requirement or so that the employer can send the model notice in a timely fashion if applicable. Individuals have 60 days to elect this coverage from the date of receipt of the notice. Due to the timing of the model notice and the notification period, it is expected that any eligible individual currently on COBRA will continue to make payments for the months of April and May.

The subsidies will be paid at 100 percent for the AEI from April 1, 2021 to September 30, 2021. There is also a requirement for employers (plan) and issuers (carriers) to notify those individuals who elect and are awarded the subsidy when the premium subsidization is due to expire. This notice (which is not yet available) is due between 15 to 45 days prior to the expiration of the subsidy and the AEI would then be eligible for a Special Enrollment Period to enroll in coverage through the marketplace.

Generally speaking, whichever entity is responsible for paying the COBRA premium subsidy for the AEI, carrier or employer, will also be the party who files and receives the tax credit. The credit is meant to be taken against the Medicare tax on the employer's payroll taxes.

The resources included below will provide available information to date. If you have any questions about the requirements or available notices, please give your Broker a call. We recommend that you seek specific advice on filing for the premium tax credit with your accounting professional.

Resources

[ARPA Infographic](#)

[ARPA COBRA Guide by Carrier and Plan Type](#)

This article provides an overview of ARPA and related guidance through 4-30-2021 for COBRA and state continuation. It does not constitute legal or tax advice nor is it a full description of all requirements.