

# US DOL Publishes Model Notices for American Rescue Plan COBRA Subsidy

## Labor & Employment Law Update

on April 8, 2021



The American Rescue Plan Act (ARPA), signed by President Joe Biden on March 11, 2021, included a COBRA Subsidy covering 100% of COBRA premiums for “Assistance Eligible Individuals” during the period of April 1, 2021 through September 30, 2021. The 100% premium subsidy will be reimbursed to employers

through their quarterly payroll tax returns.

Pursuant to ARPA, employers are required to notify certain individuals about potential eligibility and details of the subsidy by May 31, 2021. Individuals then have 60-days to elect. And although Notice 2021-01 described extensions of various plan deadlines for potentially up to 1-year or 60-days after the expiration of the “Outbreak Period,” the US Department of Labor (DOL) now makes clear in its FAQ on COBRA premium assistance under the American Rescue Plan Act of 2021, that this extension of timeframes for employee benefit plans does not apply to notice periods related to the COBRA premium assistance. Also noted within the published FAQ, a penalty of \$100 per qualified beneficiary, not to exceed more than \$200 per family, may be assessed on employers for each day they are in violation of the COBRA rules.

### **Model Notices Available:**

- For all individuals who experienced a qualifying event since November 1, 2019 (excluding voluntary resignations) to be sent prior to May 31, 2021.
- (Note: This may include providing notice to individuals currently enrolled in COBRA continuation coverage, individuals that never elected COBRA, or those that elected and then dropped COBRA continuation.)

- For all individuals who experience a qualifying event between April 1, 2021 through September 30, 2021.
- For those smaller employers that are subject only to state continuation law and not COBRA, the US DOL has also provided a model notice.
- As noted at the end of *each* of the above model notices, they *ALL* should be used with the US DOL's Summary of COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021.
- Finally, as ARPA also requires employers to notify individuals approaching the end of their premium assistance eligibility period, the US DOL has provided a model notice of expiration. This notice is to be provided to individuals 15-45 days before their premium assistance is set to expire.

The above model notices cannot be used without modification that customizes each with specific information about the relevant individual and the employer's group health plan. As potential fines for noncompliance can be steep, employers should carefully set procedures for timely distribution of all requisite notices.

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