

April 10, 2021

Additional ARPA Guidance and Model Notices Released

As we reported in our [March 15th Alert](#), the [American Rescue Plan Act](#) (“ARPA”) was signed into law by President Biden on March 11, 2021. Most notably for employers and plan sponsors, ARPA provides relief to certain COBRA beneficiaries referred to as “assistance eligible individuals” (“AEIs”), in the form of a 100% premium subsidy for both federal and state COBRA coverage. The subsidy is available for COBRA coverage provided to AEIs between April 1, 2021 and September 30, 2021. As a reminder, AEIs generally include employees or dependents who lose group health plan coverage due to an *involuntary termination of employment or reduction in hours*.

ARPA provides some information about the subsidy including its length, certain notice requirements, and how it will be paid, along with some details on a new special COBRA election period and rules about changing plan coverage. However, the provisions in the Act left employers with more questions than answers regarding certain situational and logistical implications as they scrambled to understand the requirements before April 1st. Some of the answers to these questions came on April 7th, when the Employee Benefits Security Administration (“EBSA”) released a “[COBRA Premium Subsidy](#)” webpage that includes a [FAQ document](#), links to four Model Notices required by ARPA, and a [Summary of Premium Assistance Provisions](#).

Although the EBSA’s FAQ document does not provide answers to every question proposed by employers, it does provide some necessary details left out of the Act and clarifies some of the highly questioned pieces. More guidance on certain topics such as the mechanics of the reimbursement for the subsidy and examples of “involuntary” termination is still welcome and anticipated, but many employers’ immediate questions were answered in this FAQ. Some of the top questions our agencies received from employers are set forth below with the answer for quick reference.

1. **Does ARPA only apply to employers subject to federal COBRA?** No. ARPA applies to both employers subject to federal COBRA and those subject to any state “mini-COBRA” law.
2. **Does the subsidy apply to dental and vision plans or just health benefit plans?** The subsidy applies to ERISA group health plans that provide “medical care,” including dental and vision plans.
3. **The subsidy applies only to those than had an involuntary termination of coverage. Does the subsidy likewise only apply to those than had an involuntary reduction of hours?** No. It appears the subsidy applies to those who have either a voluntary or

involuntary reduction of hours. In fact, the answer to Q3 in the FAQ document provides reduction of hours examples that include employees taking a temporary leave of absence or participating in a lawful labor strike, among other things.

4. **ARPA states that an individual will not be or will stop being eligible for the subsidy if he or she is eligible for other group health coverage. Does this include coverage sponsored by a spouse's employer or only the individual's own employer sponsored health coverage?** The FAQs make it clear that an individual will not be eligible for the subsidy if he or she is eligible for any other group health coverage, including coverage sponsored by a spouse's employer.
5. **ARPA provides a special COBRA election period for individuals who were eligible for COBRA prior to April 1, 2021 and did not take it or who dropped coverage before the end of the COBRA period. If an individual enrolls during the special election period, does he or she need to pay the past premiums for the months he or she was not on COBRA between the qualifying event date and April 1?** No. An individual will not need to "make up" any COBRA premium contributions for past months as the new period begins April 1st and will not be retroactive to cover those past months.
6. **Do the extended notice periods provided to plan sponsors and benefit plans in Notice 2021-01 (see our [Alert](#) for more information) apply to the notices required under APRA?** No. The extended deadlines in that Notice do not apply to the 60-day Election Notice required under ARPA or the election periods related to the subsidy.
7. **If my dependent turns 26 and ages out of coverage between April 1st and September 30th and elects COBRA, would he be eligible for the subsidy because his coverage involuntarily terminated?** No. Subsidy eligibility does not hinge on *coverage* being involuntarily terminated; instead, eligibility is based on whether *employment* is involuntarily terminated causing the loss of coverage. A dependent would only be eligible for the subsidy if the employee was involuntarily terminated or had a reduction in hours.

As more guidance is released from the government on ARPA, we will provide updated Alerts with answers to your questions. In the meantime, if you have specific questions regarding the information provided here, please contact the experts at [Patriot Growth Insurance Services](#) and our partner agencies for assistance.