

Updates to COBRA notices related to American Rescue Plan



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Last week the Department of Labor issued FAQs and Model Notices relating to the American Rescue Plan Act (ARP) COBRA Subsidy. The COBRA Subsidy provides coverage to Assistance Eligible Individuals at no cost to the individual from April 1 through September 30, 2021. The Department of Labor FAQs are available [here](#). Employers will cover the cost of premiums and recoup the cost through tax credits. A previous Client Alert provides more detail on ARP and the COBRA Subsidy. That Client Alert is available [here](#). The updated COBRA notices are outlined below.

Employers will need to update their current COBRA Notices with these model notices for use temporarily through September 30, 2021, when the COBRA Subsidy is set to expire.

Model General Notice and COBRA Continuation Coverage Election Notice

This notice should be sent to all qualified beneficiaries who experience a qualifying event between April 1 and September 30, 2021. The notice must be sent within 14 days after the employer received notice of the qualifying event. The Model General Notice is available [here](#).

Employers are not required to use this model notice. Instead, they may incorporate the new language pertaining to ARP and the COBRA Subsidy into their current notices. However, the Department of Labor (DOL) will consider use of the model notice to be good faith compliance with the content requirements of ARP.

The updated General Notice must also include the Summary of the COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021. This document should be appended to the end of the notice, and is available [here](#).

Model Notice in Connection with Extended Election Period

This notice should be sent to all individuals who became Assistance Eligible Individuals (AEIs) prior to April 1, 2021, and individuals who would be AEIs had they elected or maintained COBRA Coverage prior to April 1, 2021. This model notice is available [here](#).

Again, employers are not required to use the model notice but may instead incorporate the updates into their existing notices. Use of the model notice will be deemed good faith compliance with ARP by the DOL.

Notably, this notice must be sent to AEIs who became entitled to COBRA prior to April 1, 2021 who either declined coverage, or initially elected coverage but later dropped coverage due to the financial burden.

This notice should also include the Summary of the COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021, available [here](#).

Model Alternative Notice

This notice is for employers with health plans that are not subject to federal COBRA requirements, but instead are subject to state “mini-COBRA” continuation coverage. Mini-COBRA most often applies to employers with fewer than 20 employees. Both Missouri and Kansas have mini-COBRA requirements.

Like the other model notices, employers are not required to use the model but may modify their current notice accordingly. The Summary of the COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021 should be included with this notice, this summary is available [here](#).

Model Notice of Expiration of Premium Assistance

This notice is used to notify AEIs that their COBRA Subsidy is set to expire. The notice should be sent to AEIs 15 to 45 days before the subsidy is set to expire. This notice does not need to be sent to AEIs that lose the subsidy due to becoming eligible for another group plan (for example, through new employment or an increase in hours), or become eligible for Medicare. The Model Notice of Expiration of Premium Assistance is available [here](#).

Summary of COBRA Premium Assistance Provisions Under the American Rescue Plan Act

This document summarizes the subsidy available to AEIs through September 30, 2021, and should be included with all notices, except for the Expiration of Premium Assistance notice. This document is available [here](#). This document also includes a form for employees to request treatment as an AEI.

This article is general in nature and does not constitute legal advice. Please note that new guidance is being provided by authorities on a daily basis so please monitor new developments and guidance, including but not limited to our firm’s [COVID-19 Resource Center](#). Readers with legal questions should

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