



HOTCHKISS
INSURANCE

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

The following is a summary FAQ only and does not describe the full extent of employer compliance obligations. [Please visit the Department of Labor dedicated website for additional information and additional FAQs.](#)

ARPA COBRA Subsidy FAQs:

What is the Subsidy Period? From April 1, 2021 to September 30, 2021

What is the Special Election Period?

Under ARPA, AEI's have a new election period of 60 days from date of notice or ARPA special election period.

What COBRA coverages are included in the premium subsidy?

The subsidy appears to apply to medical/prescriptions, dental, vision, Employee Assistance Program (EAP), and select Health Reimbursement Arrangements (HRAs) plans.

How quickly must employers provide notifications to individuals that may be eligible for the subsidy?

Employers will need to send a notice to eligible individuals within 60 days after April 1, 2021, which is May 31, 2021. Upon receipt of the notice, eligible individuals will have a 60-day enrollment opportunity.

If someone voluntarily resigned, are they eligible for the subsidy?

No. The subsidy is not available for employees who voluntarily left their job. Further, individuals who are eligible for employer-sponsored health coverage or Medicare are not eligible for the subsidy and are obligated to notify the employer accordingly.

Are individuals who previously declined or discontinued their COBRA coverage eligible for the subsidy?

Yes, the subsidy extends to those who may have declined or discontinued their COBRA coverage, as long as they are still within their coverage period. Such election would be prospective from April 1, 2021, only, without needing to elect and pay retroactive to the date coverage was lost or discontinued. Eligible individuals must enroll within 60 days of receipt of the new COBRA extension notice.

What if an individual exhausts their cobra eligibility during the subsidy period?

Cobra Maximum Period still applies (18 months in most instances) during the subsidy period. If Cobra eligibility is exhausted prior to September 30th the AEI would lose qualification and their subsidy when Cobra is exhausted.

Do all employers need to provide the subsidy and enrollment options to employees?

All group health plans (including insured and self-funded plans) subject to COBRA and state continuation (except health flexible spending accounts (FSA)) must provide this subsidized coverage. COBRA generally applies to all private-sector group health plans maintained by employers that had at least 20 employees on more than 50% of their typical business days in the previous calendar year. Both full-time and part-time employees are counted to determine whether a plan is subject to COBRA. In addition, several states have “mini-COBRA” laws that apply to additional employer sizes. The Act contains language that this subsidy is applicable to “a State program that provides comparable continuation coverage.” It is anticipated that the forthcoming regulations will clarify how the credit applies to employers covered under state continuation laws.

Are the COBRA subsidies and special enrollment rights retroactive?

The COBRA special enrollment right created by ARPA is not retroactive in the sense that a person whose COBRA qualifying event was back in December 2020 cannot now elect COBRA retroactive to December 2020. Rather, such person will only have the right to elect COBRA starting April 1, 2021, at the earliest.

Does ARPA require that COBRA subsidies and special enrollment rights be provided to spouses and children who themselves experience a COBRA qualifying event?

No. The COBRA triggering event is the employee's termination of employment or reduction in hours that results in loss of eligibility. Spouses and children of the employee or former employee get to tag along and have independent rights to elect COBRA, as normally happens with COBRA continuation coverage. However, spouses who lose coverage because of death of the employee or divorce from the employee are not entitled to ARPA's subsidies or special enrollment rights. Similarly, children who age out are not entitled to ARPA's subsidies or special enrollment rights.

We offer multiple health care options. Can we allow those eligible to enroll in a different group plan?

Yes. Under the ARPA, employers have the option to allow eligible individuals to elect a different coverage option offered by the employer if that option is less expensive. This is not required. This plan enrollment option period lasts up to 90 days following ARPA-related COBRA-notice receipt. The DOL will be releasing model notices for employers to utilize.

What do employers need to do to get the COBRA subsidy?

Employers will be able to offset the cost of the COBRA subsidy through a payroll tax credit against the Section 3111(b) Medicare tax. The credit will include the entire COBRA premium, including the 2% administrative fee. More information and guidance on the tax credit procedures will be forthcoming as the IRS and DOL work to determine the exact procedure.