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Update On the ARPA Cobra Subsidy: DOL Releases Additional Guidance and Model Notices

April 15, 2021

In our recent client advisory (found [here](#)), we discussed the COBRA premium subsidy provided for under the American Rescue Plan Act ("ARPA"). In early April, the Department of Labor ("DOL") released an FAQ on the COBRA premium subsidy, along with model notices that plan sponsors can utilize in complying with the new notice requirements related to the subsidy. These FAQ and model notices can be found [here](#).

ARPA COBRA SUBSIDY FAQ

The FAQ provides a summary of the ARPA COBRA subsidy requirements through a series of questions and answers. Among the information provided, there are a number of clarifications to the ARPA requirements, including:

- An employee who would not be eligible for COBRA continuation coverage due to the "gross misconduct" exception, if applicable, would also not be eligible for the ARPA COBRA subsidy.
- The extensions for COBRA notice and election periods under guidance issued by the Departments earlier in the COVID-19 pandemic do not apply to the notices or the election periods related to ARPA COBRA subsidy.
- Individuals who would otherwise be Assistance Eligible Individuals but who have individual market health insurance coverage (through a Health Insurance Marketplace or outside of the Marketplace) are eligible for COBRA continuation coverage with the ARPA COBRA subsidy during the special enrollment period. However, the individual would no longer be eligible for a premium tax credit, or advance payments of the premium tax credit, for Marketplace coverage during the subsidy period.

DOL MODEL NOTICES

The Model Notices made available include:

- Model General Notice and COBRA Continuation Coverage Election Notice (*for use with qualified beneficiaries who have a qualifying event between April 1, 2021 and September 30, 2021*)
- Model Notice in Connection with Extended Election Period (*for use with Assistance Eligible Individuals, as well as those who would currently be Assistance Eligible Individuals if they had elected and/or maintained COBRA continuation coverage*)
- Model Alternative Notice (*for use by insured coverage that is subject to state continuation requirements*)
- Model Notice of Expiration of Premium Assistance (*for notifying Assistance Eligible Individuals of the expiration of the subsidy between 15 and 45 days before it will expire*)
- A Summary of COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021

As with prior model COBRA notices from the DOL, these notices will need to be tailored for the particular group health plan and/or qualified beneficiary.

If you have questions or would like additional information, please contact a member of our Employee Benefits and Executive Compensation Practice Group.



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