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## What Do Employers Need to Know About COBRA Coverage Under the American Rescue Plan Act?

The American Rescue Plan Act of 2021, which became law in early March, provides a COBRA “Premium Assistance” program for workers who qualify for COBRA continuation coverage or similar state-mandated coverage due to an involuntary termination of employment or reduction of hours. Individuals who qualify under the program will not have to pay COBRA premiums from April through September 2021. The Federal government will reimburse employers for the premiums through a payroll tax credit.

An individual qualifies for the COBRA Premium Assistance program if:

- The individual is eligible for COBRA continuation coverage during any of the period April through September 2021;
- The individual is eligible for COBRA continuation coverage because of the individual’s or another person’s involuntary termination of employment or reduction of hours;
- The individual elects or elected COBRA continuation coverage (such election may be made within the 60-day period after the individual receives notice of the COBRA Premium Assistance program even if the individual previously declined COBRA coverage); and
- The individual is not eligible for other group health plan coverage.
- Employers are allowed a tax credit against Medicare payroll taxes on the quarterly employment tax return for the amount of the unpaid COBRA premiums. Employers will get a refund if the credit exceeds the amount of the Medicare payroll taxes. There will be a procedure for claiming the credits in advance.

Employers and COBRA administrators have the following administrative duties as part of this program:

- The employer must allow qualifying individuals to enroll in coverage that is different from the coverage in place when the COBRA qualifying event occurred.
- COBRA notices must include a description of the COBRA Premium Assistance program and the option to enroll in different coverage.
- Individuals who previously received COBRA notices must be notified by the end of May of the availability of the COBRA Premium Assistance program and the opportunity to elect different coverage.
- Individuals must be notified if their eligibility for COBRA premium assistance will “soon” expire due to become eligible for other group health coverage or the end of the COBRA continuation coverage period.

The IRS and DOL are directed to provide model notices by April 6, 2021.

The COBRA Premium Assistance program should be viewed as an overlay to the IRS and DOL regulations issued last May that extend the following COBRA election and COBRA premium payment timeframes:

- The 60-day period for electing COBRA; and
- The due date for making COBRA premium payments.

In both cases, the period from March 1, 2020, until 60 days after the end of the national emergency is not taken into account when determining the COBRA election period and the COBRA premium payment deadlines. The national emergency began on March 1, 2020, and has been extended by President Biden. There is no scheduled end date. As a practical matter, this means that



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a former employee may elect COBRA continuation coverage and remain covered without paying premiums until 60 days after the end of the national emergency. Employers are at risk that former employees and their beneficiaries will elect COBRA, receive reimbursements but not pay the premiums. The COBRA Premium Assistance program will largely eliminate that risk for the period April through September 2021 for those COBRA eligible individuals who qualify for premium assistance.