



**Gallagher**

Insurance | Risk Management | Consulting

## DOL Issues Guidance and Model Notices for ARPA COBRA Subsidy

The American Rescue Plan Act of 2021 (ARPA) includes a 100% COBRA subsidy for assistance eligible individuals beginning on April 1, 2021. On April 7, 2021, the Department of Labor (DOL) issued initial guidance along with four model notices. The guidance also includes two forms and a set of FAQs.

### Model Notices

The ARPA required the DOL to provide two model notices (general and election) by April 10 and a third model notice (termination of the subsidy) by April 25. The DOL provided all three of these notices (plus one additional model notice) ahead of the statutory deadline. The new model notices are:

- [\*\*A Model General ARPA COBRA Notice\*\*](#) – to be used for qualified beneficiaries who have a qualifying event between April 1, 2021 and September 30, 2021.
- [\*\*A Model COBRA Notice with Extended Election Periods\*\*](#) – to be provided to individuals who may be eligible for the COBRA subsidy where the qualifying event (involuntary termination of employment or reduction in hours) occurred before April 1, 2021.
- [\*\*A Model Alternative Notice\*\*](#) - to be used for individuals with insured coverage subject to state continuation coverage who have a qualifying event between April 1, 2021 and September 30, 2021.
- [\*\*A Model Notice of Expiration of Premium Assistance \(Subsidy\)\*\*](#) – to be sent to individuals whose COBRA subsidy will end before September 30, 2021.

As with other model notices provided by the DOL, employers (or their COBRA administrators) will need to fill in the blanks in the notices with the appropriate information. Alternatively, employers may use their own notices as long as those notices satisfy the COBRA notice content requirements. However, the DOL has stated that it considers appropriate use of the model election notices to be good faith compliance with the election notice content requirements.

### Summary of Major Provisions and Forms

Along with the model notices, the DOL also released a document called the [\*\*Summary of the COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021\*\*](#). This four-page document is designed to be completed by the employer (or

COBRA plan administrator) and included with the applicable COBRA notice provided to a qualified beneficiary. The document contains a brief summary of the major provisions on the first page with two places where plan specific information such as the name of the COBRA administrator are to be entered. The next two pages are a form – “Request for Treatment as an Assistance Eligible Individual” – which is to be used by a qualified beneficiary. The form may be used in situations where an employer has not already determined that the individual is an assistance eligible individual or to confirm eligibility.

There are two sections for an employee to complete. The employee sections contain: (1) basic contact information for the employee along with statements intended to establish eligibility for the subsidy, and (2) basic information about dependents such as name, date of birth, relationship to the employee, and Social Security Number. The dependent section also includes boxes to be checked to establish eligibility for the subsidy along with spaces for the dependent’s signature. Once the completed forms have been returned, the employer will complete a section indicating if the request is approved or denied, and if denied, the reason for the denial.

The final page is a form (Participant Notification) designed to be used by a qualified beneficiary to notify the employer (or COBRA administrator) about eligibility for another group health plan or Medicare. Qualified beneficiaries will complete the form by providing basic identifying and contact information and indicating eligibility for other coverage along with the effective date. The form contains language alerting the qualified beneficiary to the potential penalty for failure to provide this notice as required.

## **Premium Assistance Page and FAQs**

The DOL also created a [COBRA Premium Subsidy page](#) and provided FAQs. The COBRA Premium Subsidy page contains two sets of FAQs – one set intended for employees with 23 questions that provide general information about COBRA coverage – and a second set with FAQs about the subsidy.

The second set of [21 FAQs](#) is grouped into five topics:

1. **General Information** – covering eligibility, time periods, and elections.
2. **Premiums** – covering how to apply for, and how premium assistance will be provided.
3. **Notices** – a summary of what notices must be provided along with content requirements.
4. **Individual Questions for Employees and their Families** – information about changing coverage options, retroactivity (generally limited to certain premium

payments), Health Insurance Marketplace® coverage, election timing, and premium payments.

5. **More Information** – information about how to contact the DOL (private employers) or the Centers for Medicare & Medicaid Services (non-federal governmental employers).

## Action Steps

Employers will want to review this new guidance – particularly the model notices – and determine their next steps as soon as practicable. Steps employers will want to take include:

- ✓ Identifying individuals who were involuntarily terminated or had a reduction in hours and may qualify for the subsidy.
- ✓ Reviewing the new model notices and determine if you will use the new models or your own communications.
- ✓ If using the new model notices, completing the notices by adding appropriate information.
- ✓ If using your own notices, reviewing the guidance and models to ensure that your notices will satisfy the content requirements.
- ✓ Working with third-party vendor or internal COBRA administration team to provide the new notices as required.

**Stay Tuned!** Gallagher is creating an ARPA COBRA subsidy toolkit with more information on notice requirements, FAQs, a flowchart, and a checklist. And if you haven't already, you may want to listen to our webcast: COBRA Connections: **ARPA Subsidies and Outbreak Period Relief – What Could Go Wrong?** ([click here](#) to register)

---

*The intent of this analysis is to provide general information regarding the provisions of current federal laws and regulation. It does not necessarily fully address all your organization's specific issues. It should not be construed as, nor is it intended to provide, legal advice. Your organization's general counsel or an attorney who specializes in this practice area should address questions regarding specific issues.*