

The American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) COBRA Premium Assistance

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The American Rescue Plan Act of 2021 (ARPA; [P.L. 117-2](#)) subsidizes [Consolidated Omnibus Budget Reconciliation Act \(COBRA\) continuation coverage](#) from April 1, 2021, through September 30, 2021, for certain individuals who lose employer-based health insurance as a result of an involuntary termination or a reduction in hours. It also provides employers (or in some instances, multiemployer plans or insurers) with a refundable payroll tax credit to reimburse the employer for the unpaid premium amounts.

As of publishing, the [Internal Revenue Service](#) has indicated that it is reviewing implementation plans for the ARPA, and new information is to be made available soon. The [Department of Labor](#) is also required to provide guidance on the implementation of the COBRA premium assistance. The following summarizes information on relevant, current federal COBRA continuation coverage rules and the COBRA premium assistance, as specified in the ARPA.

COBRA Continuation Coverage

Federal COBRA requirements apply to [private sector employers, state government employers, and local government employers](#) that have 20 or more employees and offer their employees employer-sponsored health insurance coverage. Some employers with fewer than 20 employees may be subject to state “mini-COBRA” laws, which often function similar to federal COBRA requirements but generally apply to smaller employers.

Employers subject to federal COBRA requirements generally must provide their employees who experience certain events (and lose their coverage as a result of such events) with the option to continue their health insurance via COBRA continuation coverage. Specified qualifying events include both voluntary and involuntary termination of employment, a reduction in hours, as well as other statutorily defined events. In addition and where applicable, the option to continue coverage must also be provided to the employee’s spouse and dependent children.

For purposes of the qualifying events relevant to the COBRA premium assistance, the COBRA coverage for the employee and the employee’s spouse and dependent children must be allowed to continue for 18 months from the date of the qualifying event. In certain circumstances, an employer may cut COBRA coverage short or be required to extend such coverage according to statutory limits.

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When offering COBRA coverage to qualified individuals, employers are permitted to charge the covered beneficiary a premium for COBRA continuation coverage that is 102% of the employer-sponsored insurance premium. In other words, the COBRA premium can equal the summation of (1) the portion of employer-sponsored insurance premium normally paid by the employee, (2) the portion of the premium that would be paid by the employer (if any), and (3) an additional 2% administrative fee. For disabled individuals who qualify for an additional 11 months of COBRA coverage (i.e., qualify for 29 total months of COBRA coverage), the employer may charge up to 150% of the employer-sponsored insurance premium for these additional months.

COBRA Premium Assistance

The ARPA provides eligible individuals with a 100% premium subsidy of COBRA coverage during the period beginning on April 1, 2021, and ending on September 30, 2021. As such, eligible individuals are not required to pay any premium amounts, or administrative fee amounts, for COBRA coverage during this time frame.

Eligibility for Premium Assistance

Not all individuals eligible for COBRA coverage are eligible for the COBRA premium assistance. Individuals are generally eligible for the COBRA premium assistance if they become eligible for COBRA coverage as a result of an involuntary termination or reduction in hours and elect COBRA coverage. In addition, any individuals (1) who experienced an involuntary termination or reduction in hours but did not elect COBRA coverage before April 1, 2021, or (2) who initially elected COBRA continuation coverage and discontinued their COBRA coverage before April 1 would also be allowed to receive COBRA premium assistance if they subsequently enroll in (or reenroll in) COBRA coverage. (These two additional groups of individuals are to be provided with up to 120 days after April 1 to elect COBRA continuation coverage. Under such election, the COBRA continuation coverage would begin on or after April 1, and individuals would not need to pay premiums for coverage before April 1. The coverage would not be allowed to extend beyond the period of COBRA continuation coverage that the individual is eligible for, which is generally 18 months from the date of the qualifying event.)

In addition, to be eligible for the premium assistance, the individual's employer must be subject to federal COBRA requirements or "comparable" state COBRA requirements. Employees of employers that are not subject to federal or comparable state COBRA requirements (e.g., federal government employees) are not eligible for the premium assistance, even if the employer offers the employee some form of coverage after they lose their job.

While the assistance is available from April 1, 2021, through September 30, 2021, in some instances, the COBRA premium assistance may end earlier than September 30, 2021, for certain individuals. Specifically, COBRA premium assistance would end if an individual reaches the end of the maximum COBRA coverage period, or if the individual becomes eligible for coverage under another employer-sponsored plan or becomes eligible for benefits under Medicare. (Individuals receiving the COBRA premium assistance could be penalized if they fail to notify the health plan administrator that they are no longer eligible for the COBRA premium assistance as a result of eligibility under another employer-sponsored plan or eligibility for Medicare benefits.)

Individuals who are not eligible for the COBRA premium assistance and enroll in COBRA continuation coverage generally would be required to pay premiums for COBRA coverage.

Information on How an Individual Can Receive Premium Assistance

Individuals generally are able to work with the employer's health plan administrator to determine eligibility for the premium assistance and for information on how to receive it. Individuals who are eligible for the COBRA premium assistance should receive a notice from their health plan administrator within 60 days of April 1 that informs them of the availability of the COBRA premium assistance. That notice should contain the forms necessary to establish eligibility for premium assistance; the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; a description of the eligible individual's right to a subsidized premium and any conditions on receiving the subsidized premium; as well as other pieces of information specified in the ARPA. In short, the notice should provide individuals with information on their eligibility for the premium assistance and how to apply for it.

If individuals are eligible for the COBRA premium assistance and pay amounts for COBRA coverage during the subsidy period, then they should be reimbursed the excess payment amounts within 60 days.

COBRA Premium Assistance Payroll Tax Credit

Generally, employers are initially required to cover the costs of providing this subsidized COBRA coverage but are able to offset these costs via a refundable payroll tax credit. In many situations, employers would claim this credit quarterly, though the credit (including any refundable portion) is allowed to be paid to the employer in advance—according to forms and instructions to be provided by the Secretary of the Treasury—up to the amount calculated through the end of the most recent payroll period in the quarter.

In instances where there is a multiemployer plan, the multiemployer plan initially covers the cost and will claim the payroll tax credit. In instances when employers purchase fully-insured plans, the insurer providing the plan is to initially cover the cost and claim the credit.

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