

ATTENTION: What You Need to Know About the American Rescue Plan Act

March 11, 2021

Yesterday, President Biden signed into law the American Rescue Plan Act (ARPA). This bill contains provisions on exchange subsidies, dependent care flexible spending accounts, unemployment and economic stimulus, and PPP loans/aid to businesses. Also, this bill requires additional administration from employers with respect to COBRA.

Under this bill, eligible COBRA enrollees (and their families) can receive a 100 percent federal subsidy for their COBRA premiums. This federal government subsidy will be granted through payroll tax credits for employers. The employer will pay 100 percent of the former employee's COBRA premium during the time period and will be reimbursed by the federal government through a credit against payroll taxes or, for credit amounts exceeding payroll taxes, as a refund of an overpayment.

The subsidy for COBRA premiums will begin on April 1, 2021, and end on September 30, 2021. Eligibility for the subsidy requires involuntary termination of employment or a reduction in hours only. Employees who terminate voluntarily from employment are not eligible.

The subsidy will last for a maximum of six months. Subsidies will end the earlier of 1) the individual's maximum period of COBRA coverage (normally 18 months) or 2) September 1, 2021. If the individual receiving the subsidy becomes eligible for coverage under another employer's group health plan or under Medicare, the subsidy will also end early.

Individuals on COBRA are required to notify their former employers if they become eligible for such coverage, however under ARPA, individuals will be subject to a \$250 penalty if they fail to notify their former employer of their new opportunity for coverage. If the failure is deemed to be with intent, the penalty is the greater of \$250 or 110 percent of the subsidy.

Employers are permitted (not required) to allow employees to choose a different group health plan than their current selection but the premium cannot be higher than the employee's former plan. If the employer chooses to allow this change, the employee would have 90 days from the date of their COBRA notice to make a new plan selection.

Employers have responsibilities. They must provide a revised COBRA notice to all who may be eligible for the subsidy. This requires employers to amend their current COBRA notices and election forms. We expect new model notices to be issued within approximately 30 days. Employers must also provide notices to eligible workers who have yet to elect COBRA by April 1, 2021, and those who elected COBRA but then discontinued it. Those previous employees may elect COBRA during the deemed enrollment period of April 1 ending 60 days from the date notice of the subsidy was provided.

Employers should discuss these changes and responsibilities with their agent and/or their COBRA administrator or third-party administrator immediately in order to prepare. A list of potentially eligible employees should be compiled so that notices can be sent as they are developed. The list should include all COBRA eligible former employees who were eligible for the last 18 months, those who have terminated from the plan back to November of 2019 since their 18 months of coverage would have run through April of 2021.

We ask that you reach out to your Cornerstone representative for more detailed information as the administration continues to develop. We will stay ahead of all the latest news and information to ensure you are in the loop.