



Legislative Frenzy

COBRA Subsidies, limits, relief and more



Welcome

Today's Agenda

1. COBRA Subsidies

- What you need to know about the new COBRA Subsidies?
- What actions employers needs to take?
- What to consider for AElS?

2. Pandemic Relief Periods

3. Recent impacts to pre-tax benefit accounts

- Dependent Care Limits
- FSA Relief
- Eligible expenses

4. BONUS: Q & A Session





Featured Speakers



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Disclaimer Statement

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It is not legal or tax advice. For legal or tax advice, you should consult your own counsel.



COBRA Subsidies



American Rescue Plan Act of 2021



The American Rescue Plan Act of 2021 (ARPA) passed into law on March 11, 2021. The \$1.9 trillion dollar bill encompasses a variety of areas, including allowing for COBRA Subsidies for Assistance Eligible Individuals (AEIs).



Key Facts regarding COBRA Subsidies

It's 100% Subsidy of Premiums (including 2% administration fees)

New and previously eligible qualified beneficiaries may be eligible

It's available for premiums due April 1, 2021 through September 30, 2021

Eligible individuals will need to be notified

Coverage is not automatic; eligible individuals who have not yet elected COBRA will need to make an election

Subsidies apply to group health plans (medical, dental, vision), except FSAs

Employers are responsible for paying premiums and will receive a tax credit against payroll taxes

Subsidies are available for involuntary terminations and those that have had a reduction in hours

There is a second election period and doesn't require a continuous coverage period

Individuals could elect a change to coverage. But, the premium subsidy cannot exceed the cost of the coverage set at the time of the qualifying event.

Eligible Benefits

- 100% of premiums (including 2% administration fees) for the cost of Group Health Plans, including:
 - Medical
 - Dental
 - Vision
- Flexible Spending Accounts are not eligible for subsidy.
- Subsidy period begins April 1, 2021 and ends:
 - When individual becomes ineligible
 - When original COBRA coverage period is set to expire OR
 - September 30, 2021



Identifying Assistance Eligible Individuals (AEIs)

Who is eligible?

- Employees and dependents who experienced a loss of coverage due to involuntary termination or reduction of hours; does not include voluntary termination.
- Must be within eligible COBRA period.
 - This generally means anyone terminated after 11/1/2019 is potentially eligible for a subsidy.
- Must not be eligible for any other Group Health Plan.
- Must not be eligible for Medicare.



Action will be required.

- Plan Sponsors will need to review terminated participants from the lookback period and indicate if the termination was involuntary or the result of reduction of hours.

Examples – Who is eligible?



Four employees were all let go from Acme Corp and offered COBRA on November 1, 2020.



Jane
Immediately elected COBRA and has been diligently paying her premiums each month.



John
Initially enrolled in COBRA, but hasn't gotten around to paying his premiums.



Sue
Feels like it is ok to live a little and has gone without insurance for the last six months.



Tom
Started a new job and was offered insurance but wanted to keep his current plan and is currently paying for COBRA coverage.

All four are identified as Assistance Eligible Individual (AEI)

Eligible for Second Election / Subsidy

Not Eligible

Notifying AEIs

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- AEIs will need to be notified no later than May 31, 2021 of their right to coverage and will have 60 days to elect coverage.
- This is considered a second election period and AEIs did not need to previously elect coverage (or even have continuous coverage) in order to elect coverage during the subsidy period.
- Model notices were published on April 7th and are available on the Department of Labor website.

Notice Types

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- **Model General Notice and COBRA Continuation Coverage Election Notice**
 - For use by group health plans for qualified beneficiaries who have qualifying events occurring from April 1, 2021 through September 30, 2021
- **Model Notice in Connection with Extended Election Period**
 - For use by group health plans for qualified beneficiaries currently enrolled in COBRA continuation coverage, due to a reduction in hours or involuntary termination (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 Notice of Expiration of Premium Assistance**
 - For use by group health plans to Assistance Eligible Individuals 15-45 days before their premium assistance expires



Key Dates and Timelines

March 11,
2021 Bill is
signed by
President
Biden

April 1,
2021
Subsidy
effective
date

April 7
The U.S.
Department of
Labor released
model notices &
FAQs

May 31 (60 Days
from effective
date) assistance
eligible
individuals must
be notified of
subsidy

60 Days from
notice election
period expires
for second
election

Notice regarding
expiration of benefits
provided 45 Days
from the expiration
the U.S. Department
of Labor provides
model notice

Sept. 30,
2021
Expiration
of subsidy



Specific Dates and Timelines are driven based on when Plan Sponsors report eligible populations.

Electing Coverage & Attestation

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- AEs who are not currently enrolled in COBRA will be required to elect coverage through a Second Election Period.
- All AEs must formally attest to eligibility for the subsidy prior to subsidy being applied.



Premiums and Billing Impacts

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- Plan Sponsors will be responsible for paying premiums to carriers and will receive a credit on their payroll taxes for the cost of premiums + 2% administration fees (if applicable).



- Plan Sponsors may be responsible for the 2% administration fees to Third Party Administrators. Processes may vary, but may consist of:
 - Reduction in premium remittance amounts
 - Negative remittance amounts
 - Invoiced administrative fees

Key Administrative Factors

- Timing and delivery of notices
 - Defining the involuntary termed population
 - Understanding the lookback period and where the information is available
- Ability to apply subsidies retrospectively
- Repayments of premiums already paid (credits and refunds)
- Employers may experience a negative remittance scenario

BRI Next Steps

- **Week of April 19:** Plan Sponsors notified of the availability of the *Participant Lookback Report* through the portal.

Last Name	First Name	MID	AEI 2021 Status	SCN	QE Date	FDOC	LDOC	Event Type	
Smith	John		9717	UKNOWN	111223333	5/31/2020	6/1/2020	11/30/2021	Termination
Doe	Jane		21458	UKNOWN	222334444	2/13/2021	3/1/2021	8/30/2022	Termination - Im

Client Name	QB Status	Medical Plan St	Dental Plan Stat	Vision PlanStatu	EAP Plan Status
Employer 1	Active	E	E		E
Employer 1	Active	TP		TP	

- **Prior to May 10:** Plan Sponsors complete and provide the *Participant Lookback Report* with the AEI status field.
- **COBRA Subsidy Eligibility Notifications Sent:** BRI imports status and sends notifications within 10 business days of system availability.

Pandemic Relief Periods





Pandemic Relief Periods

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General guidance:

- Pandemic Relief Periods were provided at the start of the Pandemic and provided for an extended period of time for certain actions, including:
 - Election and payment for COBRA
 - Submit claims for reimbursement from FSA or HRA

Relief periods expire the lessor of:

- 12 months from the original effective date
- 60 days following the end of the Outbreak Period

Note: Pandemic is still considered ongoing.



COBRA Election Period Example



Donna had a COBRA Qualifying Event and was provided a COBRA election notice on March 31, 2020.

ORDINARY TIMELINE

Donna would have 60 days to make her COBRA election (April 1, 2020 and May 30, 2020)

PANDEMIC PERIOD FINAL RULES

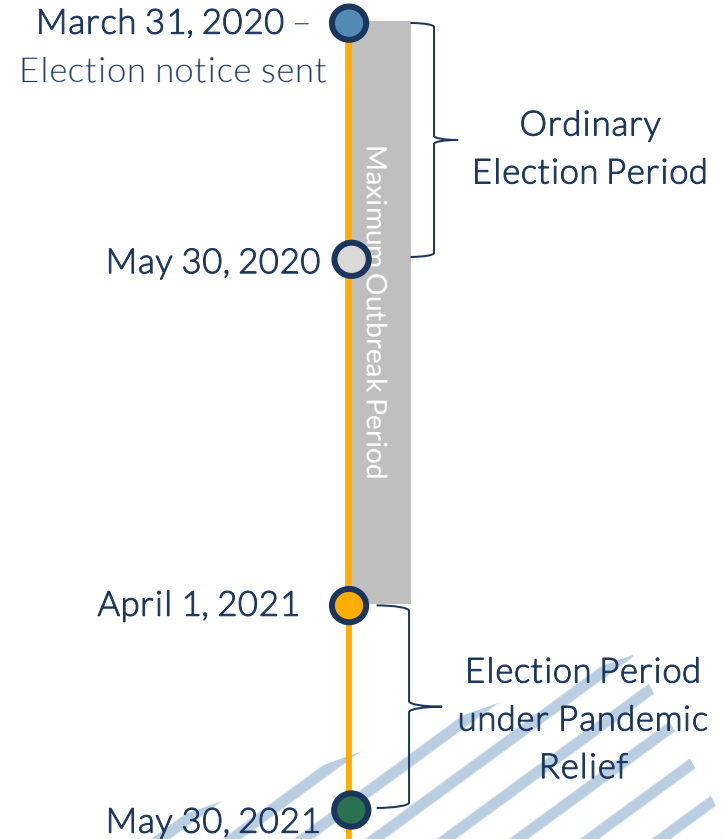
Final Rule tells us that in determining the 60-day election period, the plan must disregard the period from March 1, 2020 until the end of the “Outbreak Period,” not to exceed 12-months.

How does it apply to Donna?

For Donna, the 60-day period does not start to run until either the end of the “Outbreak Period” or a maximum of 12-months has passed.

Donna’s COBRA election period would be suspended for the maximum one-year period that applies to her, from April 1, 2020 to March 31, 2021.


Her COBRA election period would then run from April 1, 2021 to May 30, 2021.





Recommended Action Regarding COBRA and Pandemic Periods



- Final rules recommend Plan Sponsors notify Qualified Beneficiaries regarding the end of their Election Period.
 - BRI is providing an opt-in Special Notice regarding Pandemic Periods.
 - Watch for communication week of April 12 for details on opting-in
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How does Pandemic Relief Period Apply to Pre-tax Plans?

Original Deadline	Deadline Based on Pandemic Relief
Run-out deadline of 3/1/2020	New deadline of 3/1/2021
Run-out deadline of 6/1/2020	New deadline of 6/1/2021
Run-out deadline of 3/1/2021	New deadline not yet determined. Lessor of: 3/1/2022 (12 months from original deadline) OR 60-days following the end of the Outbreak Period as announced by the Federal Government

Impacts to Pre-tax Benefit Accounts



Dependent Care FSA Limits

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For Plan Years beginning in 2021,
Dependent Care FSA annual limits may
increase to \$10,500 (up from \$5,000).



Key Considerations

- This is a temporary increase allowed through ARPA.
- Non-discrimination testing will still apply.
- This is an optional increase that Plan Sponsors may choose to adopt:
 - A Plan Amendment and Summary of Material Modifications will be provided and will automatically expire at the end of the Plan Year which began in 2021

FSA Relief

Key Relief Provisions available for 2020 and 2021 Plan Years

1. Prospective changes to elections without a qualifying event
2. Provisions to carryover all remaining funds or extend grace periods
3. Extending access to funds for terminated employees
4. Temporarily changing the definition of an eligible DCA dependent

What to keep in mind

1. Requires active plan amendment to take advantage of the relief options
2. How will you make the most of the options provided?

By the Numbers...

- 30-35% of Plan Sponsors have adopted relief provisions
- **94% extending access to funds with 3 out of 4 choosing the carryover option**
- **60% permitting election changes**
- **28% providing access to terminated participants**

Newly Eligible Items

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COVID-19 PPE items such as masks, hand sanitizer, and sanitizing wipes

IRS Announcement 2021-7 released 3/26/21



Menstrual Care Items

CARES Act of 2020



Over-the-Counter Drugs and Medicines

CARES Act of 2020

Items purchased on 1/1/2020 or later are eligible for reimbursement from FSAs and HSAs. Reimbursement is permitted for HRAs that currently allow over-the-counter medical supplies as eligible expenses.

HSA Contribution Extension



Due to the extension of the 2020 tax filing deadline, the 2020 HSA Contribution Deadline is also extended to May 17, 2021.

Residents in Texas, Oklahoma and Louisiana have an extended deadline of June 15, 2021 due to February 2021 storms.

Contributions will be reported through the 5498-SA by June 30, 2021.

2020 Contribution Limits

- **Individual:** \$3,550 (up from \$3,500 in 2019)
- **Family:** \$7,100 (up from \$7,000 in 2019)



Client Action Summary



COBRA Administration

- Watch for COBRA Subsidy Next Steps
 - Pull Participant Lookback Report beginning week of April 19
 - Determine who is eligible for COBRA Subsidy
- Opt-in to have Outbreak Period notifications sent
 - Opt-in form arriving Week of April 12



Pre-tax Administration

- Opt-in for Dependent Care FSA limit changes
 - Email sent 3/31/21 with request form link
- Opt-in for FSA relief provisions
 - See prior communications or reminder communication arriving week of April 12 (if not yet adopted)



Questions and Discussion