

Publications

DOL COBRA Notices for the ARP COBRA Subsidy

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The American Rescue Plan Act (ARP) provides a 100% subsidy of COBRA premiums for Assistance Eligible Individuals (AEIs) starting April 1, 2021. See our March 16, 2021 [client alert](#) for a summary of the COBRA subsidy and the criteria to qualify as an AEI. On April 7, 2021, the Department of Labor (DOL) published model notices that plan sponsors may use for the administration of the subsidy, available [here](#). Per the DOL, “You don’t have to use the model notice[s], but it may help you comply with the applicable notice requirements.” The DOL considers use of the model notices to be good faith compliance with the content requirements of COBRA and the ARP as long as you fill in the blanks and select the applicable options.

Model General Notice and COBRA Continuation Coverage Election Notice (COBRA Election Notice) [MS Word](#) | [PDF](#)

This is a new version of the DOL’s model COBRA Election Notice, updated to include information on the COBRA subsidy.

The COBRA Election Notice is intended to be sent to COBRA qualified beneficiaries who have any type of COBRA qualifying event (not limited to reductions in hours and involuntary terminations of employment) between April 1, 2021 through September 30, 2021.

The Summary of the COBRA Subsidy (discussed below) must be sent with the COBRA Election Notice.

There is an alternative version of the COBRA Election Notice intended for use by insured plans sponsored by employers that are too small to be subject to COBRA under federal law (generally, an employer with fewer than 20 employees).

Model Notice in Connection with Extended Election Period (Notice of Extended Election Period) [MS Word](#) | [PDF](#)

The Notice of Extended Election Period lets potential AEIs know about the opportunity to elect subsidized COBRA. An AEI has the opportunity to elect subsidized COBRA as of April 1, 2021,

regardless of whether he or she ever elects unsubsidized COBRA for periods prior to April 1, 2021.

The Notice of Extended Election Period is intended to be sent to COBRA qualified beneficiaries (1) whose COBRA qualifying events were (A) a reduction in hours (voluntary or involuntary), or (B) an involuntary termination of employment, before April 1, 2021, and (2) who (A) are enrolled in COBRA coverage on April 1, 2021, or (B) could have been enrolled in COBRA coverage on April 1, 2021 if they had elected COBRA and paid COBRA premiums. The deadline for the plan sponsor to send the Notice of Extended Election Period is **May 31, 2021**.

The Summary of the COBRA Subsidy (discussed below) must be sent with this Notice.

Summary of COBRA Premium Assistance Provisions under the American Rescue Plan Act of 2021

(Summary of the COBRA Subsidy) [MS Word](#) | [PDF](#)

The Summary of COBRA Subsidy must be sent with the updated COBRA Election Notice and the Notice of Extended Election Period. The Summary of the COBRA Subsidy includes two forms:

- *Request for Treatment as an AEI.* In order to get the COBRA subsidy, an AEI must return the Request for Treatment as an AEI (and, if not already elected, elect COBRA) within 60 days of the date of the ARP-compliant Election Notice or Notice of Extended Election Period. The Outbreak Period extension does not apply to the 60-day deadline to return the Request for Treatment as an AEI.
- *Participant Notification.* An AEI is supposed to use this form to notify the plan sponsor in the event he or she ceases to be eligible for the COBRA subsidy due to becoming eligible for another group health plan or Medicare.

Model Notice of Expiration of Premium Assistance [MS Word](#) | [PDF](#)

The Notice of Expiration of Premium Assistance lets an AEI know that the COBRA subsidy is ending and that he or she will need to consider post-subsidy coverage options. The Notice makes clear that an AEI will be permitted to buy health insurance in the Exchange when the AEI's COBRA subsidy expires.

The Notice of Expiration of Premium Assistance must be sent to an AEI who is receiving subsidized COBRA between 15 and 45 days before an AEI's COBRA subsidy period is set to expire due to (1) the September 30, 2021 global end of the subsidy, or (2) the exhaustion of the individual's COBRA period.

The DOL also published [FAQs](#) that paraphrase ARP statutory language and explanations in the model forms but fail to answer the many pressing questions regarding the administration of the COBRA subsidy. It is our understanding that the IRS is working on guidance that may be more helpful.