



ARPA and Recent Legislative Updates

April 16, 2021

What is ARPA?

- The American Rescue Plan Act of 2021 (“ARPA”) was signed into law on March 11, 2021
- ARPA establishes a temporary (six month), 100% COBRA premium subsidy, plus 2% administrative fee
- For eligible individuals and their dependents, who lost group health coverage due to involuntary termination or reduction in hours
- April 1, 2021 through September 30, 2021
- The subsidy will end earlier than September 30th if:
 - QB becomes eligible for another group health plan such as a plan sponsored by spouse’s employer or new employer
 - QB reaches the end of the maximum COBRA continuation coverage period

Who Qualifies for the Subsidy?

- Assistance eligible individuals (AEI) are those who:
 - Had an involuntary termination
 - Had a reduction in hours
 - Not eligible for group health plan coverage (other than excepted benefits) or Medicare
 - Must be within eligible COBRA period
- There is a \$250 penalty imposed on the QB who fails to notify the plan of eligibility for other coverage
 - *TIP: NCA sends a Confirmation of Continuing Coverage questionnaires quarterly, providing QBs an easy way to communicate eligibility changes
- ARPA states that any QB eligible for other group health plan coverage or Medicare is not eligible for the subsidy. (Note that they do not have to be enrolled in the other coverage.)
- Eligible individuals who lost coverage as far back as November 2019 might benefit from the subsidy, since their 18-month COBRA period would not expire until April 2021
- The subsidy is available to employees who did not elect COBRA coverage during their original election period as well as those who initially elected COBRA, but let their coverage lapse.

Who Qualifies? - Examples



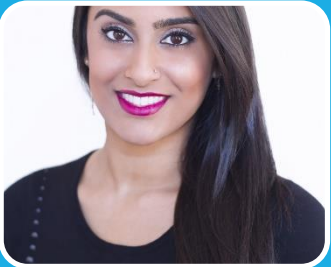
Sally

- Immediately elected COBRA and has been paying premiums each month



Tom

- Initially enrolled in COBRA, but has not paid any premiums



Claire

- Offered COBRA but did not elect, and currently has no insurance



Jamie

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

Eligible for Second Election and Subsidy

Not eligible

Eligible Benefits

- 100% of premiums (including the 2% administration fee)
 - Medical
 - Dental
 - Vision
-
- FSAs are not eligible for the subsidy, but can be continued through COBRA on a self-pay basis
 - QSEHRAs are not eligible for the subsidy



What Events Do Not Count Toward Subsidy Eligibility?

- Divorce
- Retirement
- Loss of Dependent Status
- Death of Spouse or Death of QB
- Voluntary termination (quitting employment for any reason)
- Gross Misconduct

Notifying Eligible Individuals

- Plan administrators are required to begin notifying eligible individuals of the COBRA subsidy within 60 days (deadline is **May 31, 2021**)
- AEIs have 60 days to elect coverage
- Coverage is NOT automatic (if AEI is not currently enrolled)
- No action is required for currently enrolled AEIs, but they must be notified of eligibility
- Plan administrators must notify AEIs when the subsidy period will end

- Eligible individuals who lost coverage as far back as November 2019 might benefit from the subsidy, since their 18-month COBRA period would not expire until April 2021
- The subsidy is available to employees who did not elect COBRA coverage during their original election period as well as those who initially elected COBRA, but let their coverage lapse.



New Notice Requirements

- Plans and issuers are required to notify qualified beneficiaries regarding premium assistance
- A notice of the extended COBRA election period to any AEI who had a qualifying event prior to April 1, 2021
 - This requirement does not include individuals whose maximum COBRA continuation coverage period (if COBRA had been elected or not discontinued) would have ended before April 1, 2021.
- Provide AEIs with notice of expiration of subsidy, the date of the expiration, and that the individual may be eligible for coverage without any premium assistance through COBRA or coverage under a group health plan
 - Notice must be provided 15-45 days before AEI's premium assistance expires
- This also has to work together with the outbreak period rules, which may give assistance eligible individuals the opportunity to elect unsubsidized coverage back to the date of the qualifying event.

Types of Notices

- General notice:
 - To be provided to AEIs, which includes the election notice and describes the rights to a premium subsidy
 - For QE occurring from April 1- September 30
- Notice in connection with extended election period:
 - Second new notice for QBs currently enrolled in COBRA and considered an AEI (or could be AEI)
 - Must be sent to individuals and their qualified beneficiaries who elected but discontinued COBRA coverage before April 1, or did not elect COBRA, but whose coverage period has not ended
- A notice of expiration of the subsidy:
 - To be provided 15-45 days prior to the AEI's subsidy expiration

Enrollment Periods

- Plan administrators are required to begin notifying eligible individuals of the COBRA subsidy within 60 days (deadline is May 31, 2021)
- AEIs must elect COBRA coverage within 60 days of receipt of the notice or forfeit their right to elect COBRA coverage with premium assistance
- Coverage is NOT automatic (if AEI is not currently enrolled)
- No action is required for currently enrolled AEIs, but they must be notified of eligibility

Tax Credits

- 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% admin fees
- Employers will generally be entitled to reimbursement (on a dollar-for-dollar basis) through a refundable payroll tax credit against employer-paid Medicare taxes
- Such tax credit will be applied on a quarterly basis, with any credits above Medicare taxes for such quarter to generally be treated as an overpayment that may be refundable

NCA Action Items

- NCA team has sent lists to each client to identify which QBs are eligible
 - Clients determine the termination type (voluntary v. involuntary)
- NCA will mail the special election notice to eligible individuals with the understanding that:
 - ARPA states that the special election notice must go out within 60 days of April 1st
 - Eligible individuals will have 60 days to elect after the date on which the special notice was provided
 - The subsidy will be retroactive to April 1st
- If a QB has made payment for April prior to learning of their eligibility, they will be refunded, or can apply the credit to October premiums
- NCA will continue to send monthly reports
- Our team will remain in contact to keep you informed of any changes



Increase to Dependent Care

- Allows for an *optional* increase to the maximum amount under Section 129
- Up to \$10,500 (\$5,250 if married filing separately) up from \$5,000 (\$2,500 if married filing separately)
- For the 2021 calendar year only
- Retroactive plan amendments are permitted if an amendment is adopted by the last day of the 2021 plan year
- Nondiscrimination tests still apply!
 - *TIP: Increase does not have to be the full \$10,500

FAQs

- What group health plans are subject to the premium subsidy?
 - All group health plans including Medical, Dental, Vision, HRAs, and the standard 2% admin fee
 - FSAs are not eligible
- Does the ARPA subsidy apply to State Continuation?
 - Yes, it is applicable in states that have a state continuation law. In most states, the subsidy would be applicable only to the fully insured medical plan
- How is the government paying the ARPA subsidy?
 - COBRA premiums are “advanced” by the employer (the insurance carrier in some cases) who is then reimbursed by the Federal government through a refundable tax credit. The credit will include the entire COBRA premium, including the 2% admin fee.



FAQs

- Can an eligible individual who either did not previously elect COBRA or elected but let their coverage lapse still qualify for the COBRA subsidy?
 - Yes. The subsidy is available to individuals who did not elect COBRA coverage during their original election period, as well as those who initially elected COBRA but let their coverage lapse.
 - These individuals must be offered an additional window of at least 60 days to prospectively elect COBRA coverage effective April 1, 2021 (for the remainder of the 18-month COBRA period, not in addition). The extended special election does NOT apply to state continuation by virtue of the statute. It will only affect state continuation folks going forward.
- What if the involuntarily terminated employee is now eligible for other group health plan coverage. Can their dependent(s) still qualify for the subsidy?
 - It is possible. This would need to be examined on a case by case basis. Eligibility is tied to each QB who loses coverage due to the covered employee's involuntary termination or reduction in hours.
 - In most cases, if the termed employee is eligible/enrolled in other coverage, the QB spouse/children are typically eligible but that is not always the case. If the Employee has previously elected self only COBRA, the QB spouse/children that didn't elect COBRA will now appear to get a second bite at the apple if they are not eligible for other coverage

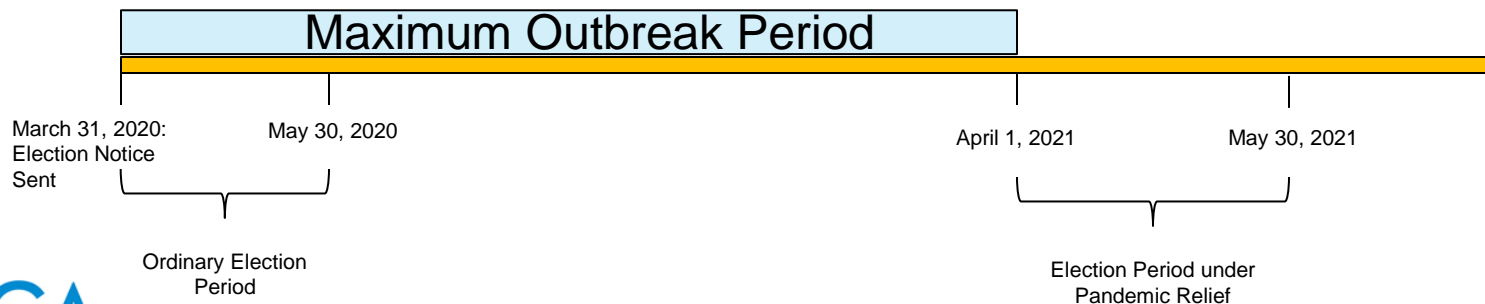


Pandemic Relief Periods

- Relief periods expire the lessor of:
 - 12 months from the original effective date
 - 60 days following the end of the Outbreak Period

Example:

- Sam had a COBRA qualifying event and was provided a COBRA election notice on March 30, 2020.
 - ORDINARY TIMELINE: Same would have 60 days to make his COBRA election (April 1 through May 30, 2020)
 - PANDEMIC PERIOD FINAL RULE: 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 this apply to Sam?
 - 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
 - Sam's COBRA election period would be suspended for the maximum one-year period that applies to him, from April 1, 2020 - March 31, 2021
 - His COBRA election period would then run from April 1, 2021 to May 30, 2021



COVID-19 Related Relief on Pre-Tax Accounts

- Mid-Year prospective changes to elections without a qualifying event
- Extending access to funds to terminated employees
- Plan sponsors can elect for an enhanced carry over or extended grace period
- Increase DCA maximum to \$10,500

*Any changes made must have a plan amendment, besides the allowance of PPE or OTC

Newly Eligible Items



COVID-19 PPE items including masks, hand sanitizer, sanitizing wipes



Menstrual Care Items



Over-the-Counter Drugs and Medicines

PPE items purchased on or after January 1, 2020 are eligible for reimbursement from FSAs and HSAs. If a participant previously submitted a claim that was denied, they can re-submit the claim for approval.

NCA had previously determined after the pandemic broke that masks were eligible items, and we have reimbursed claims for masks since then.

Questions?



If we haven't covered your question, please enter it in the
chat or email it to:
info@ncabenefits.com