

American Rescue Plan Act Webinar Q&A

Revised 4.23.21

On March 11, 2021 President Biden signed the [American Rescue Plan Act](#) of 2021 (ARPA), which provides financial relief to employers and employees affected by the COVID 19 pandemic.

The following Q&As are actual questions asked and answered during our live ARPA webinar and represent our current understanding of the ARPA provisions as of April 23, 2021.

SUBSIDY

- Q1. If an employee first experienced a voluntary reduction of hours, then a termination in a part-time role due to COVID-19, should they receive the subsidy?
- A1. Yes, the employee is required to receive the subsidy because the employee was involuntarily terminated. The voluntary reduction in hours initially elected by the employee is not relevant.
- Q2. We normally provide a lump sum COBRA payment (between 3-6 months based on years of service) to laid off employees. 2 questions related to this - #1 - Are you aware of any "credit" that will be provided to the ARPA subsidy if we already provided this lump sum to the former employee, so they are not double-dipping? #2 - if others provide this, are they making the employee whole that are laid off closer to the end of the subsidy period?
- A2. 1- The subsidy is paid to the employer and the employee will not be charged from April to September only. As such, you would not have to do anything, employees would not be allowed to double dip. But you would be able to submit the forms, etc. to the IRS to receive the subsidy advance or request an offset of taxes. 2 - Employers may choose to provide the employer lump sum payment for a period outside the April to September time period or you may simply maintain the current practice.
- Q3. What about those who resigned in lieu of termination? Are they eligible for the subsidy?
- A3. No, the subsidy is only available to those that terminated involuntarily. If an employee resigned, the employee would not be eligible for the subsidy because it was a voluntary termination.
- Q4. Is an employee terminated due to not being able to return from FMLA leave eligible for the subsidy? Does this count as an "involuntary" termination?
- A4. Yes, unless the employee handbook or other document describes termination differently.
- Q5. Subsidy is for current and new COBRA eligible individuals April 1 - Sept 30?
- A5. Correct if the Covered Employee meets the definition of Assistance Eligible Individual.
- Q6. If a member takes the COBRA subsidy, will the end of subsidy in September be a qualifying event to join a marketplace plan? Typically, failure to pay COBRA is not a qualifying event to join the individual market and they would need to wait until the end of the allowed 18 months.
- A6. Yes, an individual whose subsidy is ending will have a special enrollment period to enroll in the exchange.

- Q7. Will my company or the insurance company cover the financial cost?
A7. The subsidy would go to the insurer for a fully insured plan and to the employer for a self-insured plan. However, you would have to coordinate with the carrier to determine who is applying for the subsidy.
- Q8. Regarding a self-insured plan, you stated the subsidy for an employer could include the premiums and administration. However, not the claims? For example, a COBRA subsidized person could have a million in claims, but the employer will only be reimbursed a portion of this. Is this correct?
A8. Correct. As self-insured, the actuary should be developing the COBRA premium. The COBRA premium and any amount paid for administration will be offset by the subsidy.
- Q9. For self-insured plans, how will the subsidy work? Before subsidy, participants paid CS and then CS sent the money back to us (minus the 2%). My understanding was that no money would change hands for this 6-month period and we (the plan sponsor) would just take the credit on our tax return based on reporting of enrollment that CS could provide to us. Is my understanding correct?
A9. Please work with your service representative for specific procedural next steps.
- Q10. What if we don't normally charge the admin fee?
A10. The COBRA premium includes the cost of the administration fee. If the fee is not charged to the employee, but paid by the employer or plan sponsor, then the fee can be included in the request for a subsidy reimbursement or an offset of taxes.
- Q11. If the termination of coverage is effective from 4/01/2021, are they eligible for the subsidy?
A11. If the employee is terminated on 4/1, then the employee would be eligible for the subsidy for the period of coverage beginning on or after 4/1/2021 until 9/30/2021.
- Q12. So, this is only for employees that are terminated under no fault of their own? Correct? If they quit or are terminated due to company policy violations, they are not eligible for the subsidy?
A12. Correct, misconduct and voluntary termination would preclude the former employee from subsidy.
- Q13. Are the subsidies available for employers over 500 employees?
A13. Yes, there is no cap on employer size.
- Q14. Would retirement safely be considered voluntary under the assistance-eligible definition or are there other considerations?
A14. Yes, retirement is considered a voluntary termination. The individual would not qualify for the subsidy. The only exception would be if the employee retired because the employer was going to terminate the employee anyway. In this scenario, the retirement would be an involuntary termination.
- Q15. What if employee is terminated and provided a severance agreement? Would they qualify under the subsidy?
A15. Yes, but please note the employee does not receive a subsidy; the COBRA premium is simply \$0. If the employee has a severance agreement that will pay for COBRA, the severance may be amended to extend the amount available or the employee would simply not receive a subsidy. The employer may claim the subsidy.
- Q16. Are the following QLE eligible for subsidy?
• Absenteeism
• Job abandonment

- 90-day performance
- Violation of the CO policy
- Job elimination
- Insubordination
- No return from leave
- W/comp settlement
- Lack of work
- Leave

A16. There is not a comprehensive list in the guidance but many or all of these relate to misconduct and the determination is somewhat subjective on the part of the employer.

The following generally apply:

- Absenteeism - may constitute involuntary termination unless gross misconduct pursuant to employee handbook.
- Job abandonment - may constitute involuntary termination unless gross misconduct pursuant to employee handbook.
- 90-day performance - involuntary termination, but if the employee was not eligible for health coverage, then COBRA continuation coverage is not triggered. Otherwise, may constitute involuntary termination unless gross misconduct pursuant to employee handbook.
- Violation of the CO policy - may constitute gross misconduct pursuant to employee handbook.
- Job elimination - involuntary termination.
- Insubordination - may constitute involuntary termination unless gross misconduct pursuant to employee handbook.
- No return from leave - If the employer initiated the termination, then it would generally constitute involuntary termination. The employer would need to review facts and circumstances to determine whether the employee would have wanted to return to work, except for the employer's action.
- W/comp settlement – please review the terms of the settlement agreement for facts and circumstances necessary to analyze the type of termination.
- Lack of work - involuntary termination.
- Leave –If the employee takes approved sick or medical leave, the leave is not considered involuntary termination. Generally, during leave periods, the employee will be eligible to continue health coverage and therefore, the leave would also fail to constitute reduction in hours that triggers a qualifying event. Please review your employee handbook for information regarding payment of health coverage when an employee takes leave due to illness or to care for a family member.

Q17. If someone is on an extended medical leave that causes them to lose their coverage would they be eligible for the COBRA subsidy?

A17. If the extended medical leave results in a termination or reduction in hours yes. If not, no. Please review your employee handbook for additional information.

Q18. What qualifies as an involuntary termination? For example, if I have employees who: a) no called no showed and b) never returned to work for fear from COVID, and we had to terminate them. Does that count as an AEI because we had to terminate the employee for not showing up to work (or contacting us) or because they didn't show up to work is that a voluntary quit and they are not an AEI?

A18. An employee is eligible if involuntarily terminated, other than gross misconduct. If you have an employee handbook, the handbook or other document may define gross misconduct, that led to the termination. If the employee's failure to appear, etc. was gross misconduct, then the employee would not be eligible for the subsidy. You would also have to review the facts and circumstances. If the employee would have returned to work absent the termination, then it was involuntary. But if the employee did not want to return to work, obtained other work, or simply didn't respond, it may constitute voluntary termination.

- Q19. Are attendance issues considered performance related?
A19. Please review your employee handbook, but it may be. However, even if performance related, the termination would be involuntary, and the employee would be eligible for the premium subsidy.
- Q20. Should we keep track of voluntary terminations of employees resigning due to children in remote school until we get further guidance on this circumstance?
If our handbook states 3 days no call no show is voluntarily quitting, does that fit DOL's definition of voluntary quitting?
A20. Voluntary termination requires the employee taking unilateral action through an implicit or explicit request. You may want to wait to make a determination, but we believe this would constitute a voluntary termination because of the employee handbook and the employees presumably received and understood their actions based on the terms of the handbook.
- Q21. When an employee is terminated due to being transferred from Short Term Disability to Long Term Disability, does this qualify as "involuntary" termination and therefore they are eligible for the COBRA Subsidy?
A21. If the extended medical leave results in a termination or reduction in hours yes. If not, no. Please review your employee handbook for additional information.
- Q22. AEI - if we require associates to return to office and an associate has moved away so they take a leave of absence unpaid...could or would they be considered an AEI?
A22. Please review your employee handbook to determine if the employee would remain eligible for coverage during a leave of absence and/or if the leave of absence would enable the employee to retain his/her active employee status. If the employee is not active, then the employee is not considered eligible for the premium subsidy due to reduction in hours. Moreover, it does not appear the employee would be eligible for the subsidy due to termination of employment.
- Q23. If someone is terminated due to FMLA ending, will they be eligible?
A23. Yes, if it constitutes an involuntary termination. Check the employee handbook.
- Q24. An employee not able to return from FMLA due to a different med condition, eligible?
A24. Yes, if the employer involuntarily terminates the employee (first scenario). If the employer permits a leave of absence, you will have to check the employee handbook to see if the employee would remain eligible for coverage or if not, eligible for COBRA continuation coverage. If eligible for COBRA continuation coverage, then eligible for the subsidy due to reduction in hours (second scenario).
- Q25. So, if a qualified beneficiary (spouse or adult child) enrolls in coverage, are we required to provide the subsidy to that qualified beneficiary, or do we only pay for those if the employee enrolls?
A25. The subsidy is available for the Covered Employee and Qualifying Beneficiary if the Covered Employee is an AEI. As such, even if the spouse and child enroll separately, all three are eligible for the subsidy. Please note, each has an independent right to elect COBRA continuation coverage.
- Q26. Does dropped coverage due to nonpayment falls under this? We would have to cover their coverages, correct?
A26. If the employee fails to pay for COBRA premium, then the Covered Employee has a right to elect COBRA continuation coverage again between June 1 and July 30, 2021. A notice of the extended election period must be sent by May 2021. If COBRA continuation coverage is elected, the

employee would then receive the subsidy for the coverage period beginning on or after April 1, 2021.

If a Covered Employee begins non-payment in April 2021, the Covered Employee may be assuming he/she is eligible for the premium subsidy. If this is the case, the employee must complete the "Request for Treatment as an Assistance Eligible Individual" form and submit to you for review of his status as an AEI. If you determine the Covered Employee is ineligible, the Form would be required for you to re-review his record to ensure eligibility. Please note that you would be required to provide the form to the employee, review your files, and document your findings to prevent the assessment of penalties by a government agency.

- Q27. Is there any guidance for employees who are on salary continuation and have COBRA but are only paying the employee portion of COBRA? Are they still eligible for the subsidy?
- A27. The employee may be eligible if the salary continuation is a result of a reduction in hours. The subsidy is available for entire COBRA premium (employer and employee paid).
- Q28. To confirm, QBs not in their COBRA enrollment window and did not elect COBRA are not eligible for the subsidy. Is that correct?
- A28. The ARPA provides a special enrollment window to elect COBRA continuation coverage. The window is from June to July 30, 2021. The employee may enroll then only for coverage from April to September.
- Q29. If an employee was involuntary terminated in fall 2020 and is eligible, they took COBRA for their family for 2 months and dropped it. IF they are still eligible can they start it again as of 4.1 since it is free to them now?
- A29. Yes, the employee would have to elect COBRA during the special subsidy enrollment period. Coverage must be elected by July 30, 2021.
- Q30. What if the employee wants to extend the coverage past Sept 30th (at their expense)? Do they have to pay all months' premiums they missed prior to Apr 1st?
Since the enrollment window is retroactive, can the participant elect prospective coverage or for some but not all months of the subsidy window?
Since the enrollment window is retroactive, can the participant elect prospective coverage or for some but not all months of the subsidy window?
Is it one year plus the 60-day election window or one-year total?
- A30. No, the employee may simply continue to pay COBRA continuation coverage premiums past September 30, 2021. No, the Covered Employee's coverage must begin the coverage period beginning on or after April 1, 2021. The employee cannot pick and choose months of subsidy coverage.
- Q31. Does the employee have to elect COBRA? Or, do we need to automatically assume they will elect?
- A31. The former employee must elect COBRA during the special enrollment period ending in July 30, 2021.
- Q32. Are eligible employees required to already be enrolled in COBRA to be eligible for assistance. Or can COBRA eligible employees choose to only enroll during the April - Sep 2021 period to receive the subsidy?
- A32. Yes, and Yes. If the employee is already enrolled, the employee will be eligible to receive the subsidy. If the employee is not enrolled, the employee will have a special election period ending in July 30, 2021 to elect COBRA and qualify for the subsidy.
- Q33. Did you say if you offer the 90 option to change to a lower plan, they are NOT eligible for the subsidy for this new plan even though it is less expensive?

- A33. No, the employee is eligible for the subsidy only if elected during the election period from May to July 30, 2021. If the employee is already enrolled in COBRA, the employee has 90 days to change coverage options.
- Q34. What is an employee that separated did not elect COBRA upon separation in December? Can they jump back on and elect coverage April 1 after experiencing no coverage between December to April?
- A34. For the COBRA subsidy, the employee will have an election window beginning May 31, 2021 until July 30, 2021. If the individual elects COBRA during this window, the individual will be eligible for the COBRA premium subsidy. Separately, due to the pandemic, individuals have a one-year disregarded period to elect coverage from the original election date. For example, if the employee had a qualifying event in December 2020, the employee would have until November 2021 to elect COBRA continuation coverage. However, even if the employee elects COBRA continuation coverage in November 2021, the employee cannot receive the premium subsidy. To receive the premium subsidy, the employee must make an election by July 30, 2021.
- Q35. Are employees who were terminated prior to 4/1 but still within their election period eligible for the subsidy?
- A35. The former employee would be eligible for the subsidy for the premiums applicable to April 1 - September 30, 2021 but must elect COBRA continuation coverage between June and July 30, 2021. If the employee does not elect coverage, the subsidy will not apply. Moreover, the DOL explained in the recently issued FAQs that the one-year disregarded period does not apply for the subsidy.
- Q36. One previous employee already paid for April. Company will send refund check.... does it include the 2%?
- A36. The premium usually includes the 2% fee, but please check or request the invoice to be sure.
- Q37. When you say subsidized, does that mean I have to keep these termed employees on my plan, or I just have to offer it to them. Is our company responsible to paying their coverage? Does it mean if they have been on our plan for 18 months, we must allow them to continue coverage?
- A37. You are required to provide notices under the ARPA to employees by May 31, 2021. The Covered Employee will then have an opportunity to elect COBRA continuation coverage if not enrolled in the Plan. You must determine if the employee is a AEI and if so, cannot charge any COBRA premium.
If the Covered Employee has exhausted their COBRA continuation coverage period, the Covered Employee is not eligible for the premium subsidy.
The ARPA does not require you to continue coverage beyond the Covered Employees max coverage period. For example, if the Covered Employee was eligible for 18 months of COBRA continuation coverage, the Covered Employee cannot continue to receive COBRA continuation coverage.
- Q38. If EE is eligible for Medicare at time of separation, they are still eligible for COBRA, but would they NOT be eligible for the subsidy?
If an eligible was already eligible for Medicare but took COBRA, would they qualify for the subsidy?
- A38. Because the employee is eligible for other coverage, the employee would not be eligible for the subsidy.
- Q39. Will the subsidy last the 18 or 36 months or just the listed April - September period?
- A39. The subsidy is only available from April to September 2021.

- Q40. Do we have to rely on a terminated employee's "good faith" that they have become eligible for another group health care plan, so they no longer qualify for our subsidy?
- A40. Yes, but the employee is subject to a penalty if he/she is eligible for other group health coverage and fails to notify the employer.
- Q41. If someone is enrolled in the Marketplace or a private insurance today, can they drop that coverage and enroll in COBRA for the ARPA subsidy and then re-enroll in the Marketplace or private insurance once their subsidy expires?
- A41. If enrolled in the Marketplace yes. If enrolled in private insurance offered through another employer (including spousal coverage), no. Please note that employees must also consider out of pocket costs that will begin again when selecting a new plan.
- Q42. If an employee was terminated for gross misconduct, are the employee's dependents also ineligible for the COBRA subsidy?
- A42. Yes, none of the dependents would be eligible for the subsidy. The employee must be eligible in order for the dependents to be eligible.
- Q43. We understand that COBRA subsidy is mandatory but if we chose to continue the FFCRA paid leaves, can we take the credit for both or do employers have to select to get the credit for one or the other?
- A43. Further guidance is needed.
- Q44. Will a medical condition be covered during subsidy, if it was diagnosed when not paying COBRA premium prior to 4/1?
- A44. No, COBRA coverage must have been in effect. If the employee does not pay for retroactive coverage, any coverage for those retroactive months would not be available and the payment of claims would not be made. While the ARPA permits an employee to only enroll in coverage from April to September 2021, if the employee has outstanding claims in January or February when COBRA premium was not paid, then these claims would not be paid by the plan unless the Covered Employee pays for retroactive months. Also, the employee must pay all retroactive months and cannot pick and choose months of coverage.
- Q45. If we terminate someone involuntarily and give them a 65% subsidy already under our normal process. If the person terms in April would we have to give them the 100% subsidy through September, then give them the normal subsidy beginning in October?
- A45. The employer can either decide to hold off on the employer subsidy until October or simply give the employee the additional 15% subsidy. Please remember the subsidy is paid to the *employer* and simply requires the employee not pay any COBRA premium from April to September.
- Q46. If an AEI's subsidy is ending in, for example, July, because their continuation period only extends through July, would the notice of the subsidy terminating need to be provided earlier to that AEI?
- A46. No, the Notice of Expiration is not required to be provide for a Covered Employee whose COBRA terminates prior to September 2021 or who drops coverage due to the availability of other group health plan coverage or Medicare.
- Q47. I wonder if the marketplace will allow loss of subsidy is a qualifying event to enroll in the marketplace.
- A47. Yes, the Marketplace rules have been amended to permit an employee to enroll in Marketplace coverage upon termination of COBRA continuation coverage.
- Q48. Can someone take the ARPA subsidy for their current plan and after the subsidy period ends, have a QE and elect coverage under a lower cost plan?

- A48. To be eligible for the ARPA, the employee must be enrolled in COBRA continuation coverage or elect COBRA continuation coverage during the extended election period. Once the subsidy ends, most employees would not have a second qualifying event, but assuming they do, the second qualifying event would expand the coverage period, but would not provide the employee the option of changing coverage options. The employee can only change coverage options during an open enrollment period. The ARPA does permit an employer to adopt an amendment to permit those enrolled in COBRA to change to a lower cost plan, but this would not require a second qualifying event.
- Q49. If someone has stopped paying COBRA premiums, can they start back up to get the subsidy?
A49. Yes, but only for the months of April to September 2021. For any months prior to that, the employee would be required to pay for all COBRA continuation coverage premiums due.

VOLUNTARY VS. INVOLUNTARY

- Q50. Please define involuntary termination?
A50. Severance from employment due to the independent exercise of the unilateral authority of the employer to terminate the employment, other than due to the employee's implicit or explicit request, where the employee was willing and able to continue performing services.
- Q51. If a former employee was under a Government Contract and finished their contract on the date as originally set up, lost no wages, and hours were not decreased, would the termination for this employee be considered Voluntary? Or would it be considered Involuntary and the former employee would be eligible for the COBRA Subsidy?
A51. You would have to review the govt. contract to see if the end of the contract constitutes a termination. If it does, the employee would be eligible for the subsidy. If the contract is silent, then the employee would be considered involuntarily terminated and eligible for the subsidy if the employee would have continued the contract under the same terms and conditions. Otherwise, it would be a voluntary termination.
- Q52. If someone was let go because of poor performance, is that considered involuntary termination?
A52. Yes, that would constitute an involuntary termination. The employee would be eligible for the subsidy.
- Q53. If you terminate a person for not following policy, that is considered involuntary so they would be eligible?
A53. Yes, unless the failure to follow policy constitutes gross misconduct.
- Q54. Is the reduction of hours for only involuntary reduction of hours?
A54. No, reduction of hours includes both voluntary and involuntary reduction. The employer does not need to determine voluntary or involuntary reduction in hours.
- Q55. If someone requests to reduce their hours voluntarily does that still qualify for the subsidy?
A55. Yes, if an employee is eligible due to a reduction in hours, the employer is not required to decide if this was voluntary or involuntary.
- Q56. Would an employee on medical LOA unable to return to work due to medical condition be considered an involuntary term??
A56. Yes, this is an involuntary termination.
- Q57. We currently offer COBRA to employee's even if they were termed for cause. Can we continue with our practice and collect the subsidy credit since our practice is to offer to involuntary terminated employee's?

- A57. You may continue your practice. Whether you can claim the credit depends on documents/information that will be required to receive the subsidy. Please await additional guidance from the IRS.
- Q58. Do we have to differentiate if an involuntary termination or reduction of hours is related to COVID? Or is it for any reasons (other than gross misconduct)?
- A58. No, you only must determine if involuntarily terminated and gross misconduct. You don't have to consider COVID-19-related reasons.
- Q59. If an employee voluntarily drops to a PT status, are they eligible?
- A59. Yes, an employee's eligibility based on reduction of hours is not determined based on the employee's voluntary or involuntary reduction.
- Q60. Is terminating because of disability involuntary?
- A60. Yes, the employee is subsidy eligible.
- Q61. Does the gross misconduct have to use as the reason for termination or just have the documentation on file?
- A61. It should be the reason for termination. But if you have it on file that would be sufficient. Please note, the employee may always submit a request for the subsidy (Request for Treatment as an Assistance Eligible Individual) that you would have to review and approve or deny.
- Q62. Is there an involuntary vs voluntary question with a reduction of hours?
- A62. No, this does not apply to the determination.
- Q63. If we have offered and still offer COBRA to all termed employees, how does this plan affect us? Does it affect us?
- A63. If you offer COBRA to all termed employees, you will have to determine if the termination was voluntary or involuntary. Only involuntary terminations would be eligible for the subsidy.
- Q64. Does the notice go out to all involuntary terminations since XX date, including those that are participating in COBRA?
- A64. There are two notice packages that would go out. The first, Model ARP General Notice and COBRA Continuation Coverage Election Notice, must be provided to any Covered Employee that becomes eligible for COBRA continuation coverage for the period April to September 2021. The second package, Model COBRA Continuation Coverage Notice in Connection with Extended Election Periods, would be sent to Covered Employees that were eligible for COBRA on or after November 1, 2019 and that are not currently enrolled in COBRA continuation coverage. Finally, for those Covered Employees enrolled in COBRA continuation coverage determined to be AEIs, the subsidy should be applied automatically. Please note an employee that does not have a subsidy applied automatically may request to be treated as an AEI by submitting the Request for Treatment as an Assistance Eligible Individual form. If this form is received, you should review your records to determine if the Covered Employee is eligible for the subsidy.
- Q65. I believe your example only shows going back to 10/1/2020 to determine who was involuntary terminated and eligible for COBRA subsidy, is that the start date we use for determining? Or whoever is still within their 18 months of COBRA coverage (had they elected)?
- A65. An employer will have to look at all COBRA eligibility starting Nov 1, 2019 which would exclude any participants who had a qualifying event prior to October 1, 2019, a qualified beneficiary will not need to have elected COBRA previously.
- Q66. An employee request reduced hour (part time) so she could stay home with grandchildren to help them with remote school. Should be offered free COBRA?

- A66. An employee is eligible if terminated involuntarily or if there was a reduction in hours. The reduction in hours is not tied to voluntary or involuntary requirements. As such, an employee that decided to reduce hours and otherwise eligible for COBRA continuation coverage would be eligible for the subsidy.
- Q67. What about terminal illness terminations?
A67. Yes, this would be an involuntary termination.
- Q68. If an employee died, is the family eligible? Is this considered involuntary?
A68. No, death is not an involuntary termination and any of the Covered Employee's family members would not be eligible.
- Q69. If an employee retired and now the spouse wants to elect COBRA will that be eligible circumstance?
A69. No, retirement is a voluntary termination, unless the Covered Employee retired in anticipation to termination (i.e., the employer was going to terminate the employee anyway). The Covered Employee must be eligible to COBRA continuation coverage due to involuntary termination of employment or reduction in hours. If the Covered Employee is eligible due to these two reasons, then the spouse or the child would be eligible for the subsidy and has an independent right to elect COBRA continuation coverage.
- Q70. What about "death" of an active employee? Is that considered involuntary for the QBs that were impacted?
A70. Death is not a permitted QE for the subsidy. The family would not be eligible.
- Q71. Is death a qualifying reason for the qualified dependents?
A71. No, death is not an involuntary termination.

OUTBREAK PERIOD

- Q72. Are non-ERISA groups required to comply with the Outbreak Period rules as they relate to COBRA?
A72. Yes, if subject to ERISA, IRC or PHSA. However, please note the outbreak period rules do not apply to the premium subsidy.

TIMING

- Q73. Do you think it's possible that this might be extended further than 9/30?
A73. Any extension would require congressional action and it may be extended, but it has not been added to any congressional bill yet.
- Q74. When will the recoup of payroll taxes be done?
A74. With the quarterly taxes filed.
- Q75. I have an employee who qualifies for this assistance, but they have already paid their April COBRA bill. Are they reimbursed by the COBRA provider for what they paid in April or is it held as a credit for coverage beyond September?
A75. The amount may be either reimbursed or applied to a future premium period. Please speak to your representative about your plan.
- Q76. It is my understanding that our COBRA vendor will still require COBRA payments from EVERYONE until they get things sorted out. Doesn't this introduce risk?
A76. The AEI is eligible for the premium subsidy from April to September 2021. The FAQs released by the DOL provide that the employee is not required to pay COBRA premiums for this period and

provides the Plan Administrator may apply payments to subsequent COBRA continuation coverage months (i.e., after the subsidy ends). As such, there is no risk to the administrator in applying any payments received to future dates. Please note that the administrator should still communicate the process to employees and as much as possible, prevent having to reimburse employees that are eligible from April to September and who will not have additional COBRA continuation coverage beginning October 1, 2021.

- Q77. How should those who are eligible for the subsidy but haven't received it yet (because of timing) proceed with seeking current medical, dental, and vision care?
- A77. The employee may still seek medical care and would have to pay out of pocket. Once the employee elects COBRA continuation coverage and it is activated, the employee may then submit claims for reimbursement directly to the carrier. Please note, the claims must be dated April 1st and beyond.
- Q78. How far do we need to go back to determine eligibility for the subsidy - 18 months from April 1, 2021?
- A78. November 2019 - first month eligible for COBRA.
- Q79. The time frame was extended for COVID, is that still in effect?
- A79. Yes, but this does not apply to the subsidy. The employee must elect within the 60-day window.
- Q80. Does an individual who is not up to date in premium payments, including those who have been terminated due to nonpayment have to get caught up before the subsidy will begin?
- A80. No, the employee may elect to enroll only from April to September and would only have coverage from April to September.
- Q81. If a COBRA participant 18 months ends 8/1/2021. Would they be able to get the subsidy form 4/1/2021- 9/1/2021?
- A81. No, the Covered employee would only be eligible for the subsidy for the period April to August 2021. Because the max period for COBRA continuation coverage has been reached, the employee is no longer eligible for September 2021. Please note the ARPA provide a period for Covered Employees that are AEIs not to pay for COBRA continuation coverage, but it does not extend the maximum COBRA continuation coverage period applicable to the Covered Employee or any Qualified Beneficiaries.
- Q82. Will the COBRA participant then have a coverage gap if they are not retro funding premiums before April?
- A82. Yes, the employee will also not be covered under COBRA continuation coverage period for these months and absent payment, any claims received must be rejected or denied.
- Q83. Will new COBRA election letters need to be sent for those who can take advantage of the extended election period?
- A83. Yes, the employer must send the "Model ARP General Notice and COBRA Continuation Coverage Election Notice" package.
- Q84. How far back do we need to look back? From what I understand, the period for being a eligible employee is 18 months prior to April 1? i.e. if they were terminated involuntarily 18 months before the April 1 date, they would be able to apply.
- A84. Please contact your consultant for the time frame. But the employer would have to review terminated employees eligible for COBRA beginning November 1, 2019 to present and note which employees are eligible because involuntarily terminated or if there was a reduction in hours.

- Q85. Do eligible individuals have to start 4/1/21 if eligible at that point, or can they start in May or June, etc.?
- A85. The subsidy must begin the first period of coverage beginning on or after April 1, 2021 and ends September 30, 2021 for any existing COBRA participant or a new participant that has a qualifying event during the subsidy period.
- Q86. If COBRA notice is sent PRIOR to 5/31, would election period end PRIOR to 7/31 or does that continue until 7/31 regardless?
- A86. Election period would end 60 days following the receipt of the notice.
- Q87. As in, how far back can the termination be?
- A87. You would be reviewing termination dates beginning October 2019 for COBRA continuation coverage that begins on or after November 2019.
- Q88. Can those notices be sent earlier, and ending their election period sooner?
- A88. Yes, you may send the election notices earlier.
- Q89. Can participants decide on the start date beyond April 1?
- A89. The subsidy is available for any period of coverage beginning on or after April 1, 2021. So, if coverage usually begins on the first, then the COBRA subsidy would begin April 1st.
- Q90. Is the election period based on the May 31st date or the date that the election notice goes out?
- A90. The election period is based on the date the notice is received – this is generally the mail date.
- Q91. If the notices are sent out earlier than May 31st, does the 60 days for response end earlier?
If we provide general notice prior to 5/31 they only have 60 days from that notice date. Is that correct?
Does the election period begin when we send the notice or do, they have until July 30, 2021 regardless of when we send out the notice?
Is the election period 60 days from date of notice? or is it 7/30 regardless?
If special notice was sent prior to May 31, is the deadline 60 days from when it was sent or July 30?
- A91. The election period ends on July 30, 2021 but is a 60-day window based on the date the Covered Employee receives the notice – this is generally the mail date.
- Q92. If the notification is sent earlier than May 31, the election period is based on the actual notification date, correct?
- A92. The election period is based on the date the Covered Employee receives the notice – this is generally the mail date.
- Q93. For second chance, can they pick a date between their initial eligibility date and April 1, 2021- Sept 30, 2021 or it is either initial eligibility date or between April 1, 2021 - Sept 30, 2021?
Understand that no subsidy before or after subsidy period.
- A93. The subsidy is available for any period of coverage beginning on or after April 1, 2021. So, if coverage usually begins on the first, then the COBRA subsidy would begin April 1st.
- Q94. Is there a requirement that the employee stays on the plan until their COBRA period expires?
Or, can they drop off 9/30?
- A94. The employee can discontinue their COBRA coverage on September 30, 2021.
- Q95. How far back do you go from 4.1.2021 to allow eligibility, I assume 18 months? Please advise.
- A95. Please contact your consultant for the time frame. But the employer would have to review terminated employees eligible for COBRA beginning November 1, 2019 to present and note

which employees are eligible because involuntarily terminated or if there was a reduction in hours.

- Q96. Regarding elections, normally participants will have to elect for COBRA either via paper DOL model notice election form or online, depending on TPA capabilities, will there be a separate ARPA election form or will they have to return their normal election form? Or how will the AEI's go about informing a TPA they only want the subsidy coverage and don't want to go back to their start date?
- A96. Please work with your service representative for specific procedural next steps. Generally, the ARPA requires the use of certain notices that contain information regarding the subsidy. As such, the generally notice used prior to the ARPA would fail to contain the required information. In addition, the employer would have to determine AEI status and apply the subsidy to the months from April to September 2021. However, if the employer fails to determine a Covered Employee's AEI status, the employee may submit a form to request consideration - Request for Treatment as an Assistance Eligible Individual.
- Q97. Can they still choose any date/month they want to start their COBRA coverage? For example, what if a participant's termination was in December, would they be allowed to choose to start their coverage in, say, February and pay the Feb. and Mar. premium (and then free starting April)? Or would they ONLY be allowed to elect it as of April 1st (the beginning of the subsidy) or effective the date after their termination? Would this also apply to plan enrollment? Meaning can they change their plan at any time or just effective the start of the subsidy?
- A97. No, the Covered Employee's coverage must begin the coverage period beginning on or after April 1, 2021. The employee cannot pick and choose months of subsidy coverage.
- Q98. How far back do we go to offer this to term employees?
What is the look back period to pull the report to identify those eligible for this COBRA subsidy?
I thought legislation indicated we go back to 11/19?
- A98. An employer will have to look at all COBRA eligibility starting Nov 1, 2019 which would exclude any participants who had a qualifying event prior to October 1, 2019, a qualified beneficiary will not need to have elected COBRA previously.
- Q99. For someone who is only eligible for the first couple months of the subsidy timeframe, do they need an expiration notice earlier?
If the COBRA window closes and they are no longer eligible for COBRA wouldn't you send the subsidy expiration notice sooner?
- A99. No, the Expiration Notice is only provided to Covered Employees who have COBRA continuation coverage extending beyond September 30, 2021.
- Q100. For state COBRA - is there a special election right for those who previously decline COBRA?
- A100. Covered Employees are permitted to elect coverage only for the period April to September 2021.
- Q101. If the IV termed employee has not had COBRA coverage to date, can they elect retroactive and take advantage now?
- A101. Yes, employee may elect retroactively if within the one-year period following the date when the election is required but must pay any retroactive COBRA premiums. Or the employee can simply elect coverage from April to September 2021 during the special election period for the subsidy.
- Q102. So, if someone had elected COBRA prior to the premium subsidy, was making timely payment, but was then subsequently terminated for non-payment, will this person be eligible for the subsidy (assuming they were involuntarily separated)?

- A102. Yes, if the Covered Employee elects COBRA continuation coverage during the special election window.
- Q103. Will we see charges for fees associated with additional mailings on invoices between a certain window of time or all on one invoice for number of participants?
- A103. Please work with your service representative for specific procedural next steps.
- Q104. If someone terms June 15th - they will be eligible for the subsidy period?
- A104. Yes, but only for the first period of coverage following termination through September 30, 2021.
- Q105. 18 months prior to 4/1/2021 would be 11/1/2019 wouldn't it?
- A105. Yes
- Q106. When will we need to get you a census so that you can mail the "Notification of Subsidy"?
- A106. Please work with your service representative for specific procedural next steps.
- Q107. Do we think that the COBRA subsidy will be extended beyond September 2021?
- A107. Any extension would require congressional action and it may be extended, but it has not been added to any congressional bill yet.

ELIGIBILITY

- Q108. If an employee had an MOU dated back to 2019 and who has now lost their benefits as of May 2021, be entitled to this premium COBRA coverage? She did not lose her job because of termination or reduction of hours, but loss due to certification.
- A108. Please review internal documents and procedures or the MOU to see if the loss of certification results in the termination of employment or a reduction in hours until the certification is received.
- Q109. If it's a voluntary termination this does not apply?
- A109. Correct.
- Q110. What if an employee did not elect coverage during employment?
- A110. COBRA is only available to an employee that elected group health coverage while employed. If the employee did not elect health coverage, then COBRA is not triggered. The employee would not be eligible for the subsidy.
- Q111. Does relief apply to spouses and dependents if they did not have insurance when they were employed?
- A111. No.
- Q112. Can AEs add their qualified beneficiaries to their subsidized coverage during this extended election period? or only dependents covered at the time of termination/reduction of hours would be able to continue coverage under the subsidy?
- A112. Yes, a Covered Employee may add Qualified Beneficiaries to COBRA continuation coverage for the period April to September 2021.
- Q113. If an individual is eligible and currently on COBRA can dependents be added just for ARPA?
- A113. Yes, Qualified Beneficiaries may be added only for the period April to September.
- Q114. Employee only or family coverage also covered?
- A114. If the Covered Employee is an Assistance Eligible Individual, then his/her qualified beneficiaries are also covered.

- Q115. What about temporary short-term assignments? Are those individuals considered Assistance Eligible?
- A115. If the individuals are eligible for health coverage and then are terminated, but the assignment could have been renewed without change - yes. If the individuals are not eligible for health coverage - no. If the individuals are eligible for health coverage and then terminate, but the assignment could not have been renewed absent changes – no.
- Q116. Can we deny coverage if person is eligible for coverage elsewhere (through a spouse)?
- A116. Yes, you can deny the subsidy, the employee would then not be eligible for the subsidy.
- Q117. If someone was eligible for COBRA prior to 4/1 but could not elect due to the fact that they could not afford it, would they be eligible for the subsidy? if yes, it would just start at 4/1 and not extend to any months prior to 4/1, correct? Example: employee is eligible for COBRA 2/1. Would this person be eligible?
- A117. This person would be eligible for the subsidy for premiums paid for April 1 - September 30, 2021, and the 18-month window would start at the time of the qualifying event, COBRA continuation coverage is not extended
- Q118. If the spouse can enroll in coverage through their employer, do we still have to offer that spouse coverage?
- A118. No, the spouse would not be eligible for the subsidy. The employee may also not be eligible for the subsidy if the employee can be added to the spouse's plan.
- Q119. Does this include over age dependents who have turned 26?
- A119. A dependent that ages out would not be eligible for the subsidy. The qualifying event is "aging out" which is not the permitted qualifying event for the subsidy. Only the qualifying events of involuntary termination or reduction in hours are permitted for the subsidy.
- Q120. If our employees pay the full premium for dependents and we pay a large portion of the single coverage. Do we still have to pay the full premium for the spouse and dependent?
- A120. Yes, the subsidy applies to the Covered Employee that meets the definition of AEI and any spouse or dependents.
- Q121. Does these six months extend the 18-month eligibility period?
- A121. No.
- Q122. If a spouse is currently on COBRA due to spouse's (employee) that did not return from LOA and subsequently died, would spouse be eligible?
- A122. Yes. We look at the initial qualifying event, not the death. IF the LOA resulted in a termination or reduction in hours, then the spouse would be eligible.
- Q123. Would someone who is on a reduction of hours for a qualifying event be eligible for the COBRA subsidy?
- A123. Yes.
- Q124. Does the employee have to elect COBRA coverage to provide the Subsidized COBRA?
- A124. Yes, if the employee does not elect, then they are not COBRA subsidy eligible.
- Q125. If we offer COBRA to all (regardless of term type), will that impact eligibility for the Medicare tax credit?
- A125. You will be required to differentiate in your benefit termination files which employees are termed involuntarily to receive the subsidy. If you simply provide all the data without

differentiation to the IRS, you may receive a future request for explanation of information or additional requests for data.

Q126. So, a COBRA participant that has managed to pay their premium is not eligible for assistance as of 4/1/2021?

A126. Whether the employee can pay or not the COBRA continuation coverage premium does not matter. The subsidy is available to any Covered Employee that meets the AEI definition for the period April 1 - September 30, 2021.

Q127. If an employee did not elect coverage when eligible, can they begin coverage on 4/1/21 without going back to previous eligible months?

A127. Yes.

Q128. So let's say someone was termed 10/2020, but didn't elect because they couldn't afford....if they want to sign up now and get the premium assistance, do they have to sign up as of last October or can they sign up effective 4/1/21?

A128. Effective 4/1, if the employee wants any retroactive coverage, the employee must pay past premiums for all months due within the prescribed time frame.

Q129. How do we know when they are eligible under another health plan?

A129. Employee will inform the employer.

Q130. What about those who can join spouse or domestic partners plan?

A130. The employee is not be eligible for the subsidy if the employee can be added to their spouse's or domestic partner's plan.

Q131. Can you explain how Medicare eligibility impacts the subsidy period?

A131. If the employee is eligible for Medicare, the Covered Employee is required to inform the employer and the Covered Employee would not be eligible for the premium subsidy. If the Covered Employee fails to notify the employer, the Covered Employee will be subject to a penalty.

Q132. Does being eligible for a spouse's employer group plan disqualify for the subsidy? What if the cost to the spouse is 100% of the premium?

A132. The Covered Employee is not eligible for the subsidy if the employee can be added to the spouse's plan.

Q133. Does insurance through marketplace count towards other eligibility?

A133. No, Marketplace coverage is individual coverage not group health plan coverage. A Covered Employee is ineligible for the subsidy if eligible for another group health plan or Medicare.

Q134. If I have participants currently on COBRA terminated (involuntary) last year, they are eligible for the subsidy from April-Sept?

A134. Yes.

Q135. Would an employee's child, who turned 26 and lost coverage, be eligible for the subsidy? And in that same regard, if an employee got divorced and removed the spouse from the plans, would that spouse be eligible?

A135. No, the only qualifying events are reduction in hours and involuntary termination. As such, neither aging out is a permitted qualifying event nor divorce.

Q136. What if a former employee "wants" to take their COBRA retro to December 2020 and pay the premium and then continue with the "free" coverage effective April 1, 2021?

A136. This is allowable.

Q137. Thanks, if I heard Stacy correctly; Medical only correct?

A137. Medical, Dental, vision; does not include FSA or QSERA.

Q138. If the reason for loss of coverage is death of the employee, can the spouse be eligible for the subsidy?

A138. No.

Q139. Can you confirm that you just said that if someone picks a less expensive option than they were previously enrolled, that does not qualify for the subsidy?

A139. No, at the discretion of the employer, the plan may permit employees to change to a less expensive coverage option or a coverage option of equal cost as the one the Covered Employee is enrolled in. If this is the case, the Covered Employee is still eligible for the premium subsidy.

Q140. When you indicate "eligible individuals" does that mean if they lost coverage/COBRA ELIGIBLE or ALL employees who are covered on our insurance plan?

A140. Assistance Eligible Individuals would be defined as eligible for COBRA continuation coverage by reason of a qualifying event that is a reduction in hours or an involuntary termination of employment and that elects COBRA continuation coverage.

Q141. Any guidance on those that become eligible for Medicaid coverage?

Wouldn't they have been eligible through the marketplace?

Does Medicaid constitute other eligible coverage?

A141. If a potential AEI has individual health insurance coverage, like a plan through the Health Insurance Marketplace, or if they have Medicaid, they are eligible for premium assistance. However, if they elect to enroll in COBRA continuation coverage with premium assistance, they will no longer be eligible for a premium tax credit, advance payments of the premium tax credit, or the health insurance tax credit for health coverage during that period (i.e., month). The Covered Employee would not be an AEI if enrolled in other group health plan coverage, not individual coverage. The Marketplace and Medicaid are individual coverage.

Q142. If a beneficiary's 18-month window ends before September, let's say May, will the expiration notice be required at time (instead of the August 16 through September 15)?

A142. No, the Expiration Notice is not required for a Covered Employee whose COBRA continuation coverage ends prior to September 2021, or that is eligible for other group health plan coverage.

EMPLOYEE RESPONSIBILITY

Q143. Is it the COBRA participant's responsibility to know/acknowledge they are not eligible because they are eligible for another group health plan?

A143. Yes, the employee is responsible for notifying the plan or the employee will be subject to penalties.

Q144. Who will monitor eligibility for another group plan? I don't think we can police that activity.

A144. The employee is responsible for notifying the employer. Failure of the employee to notify the employer will result in penalties to the employee. Often this information is discovered inadvertently by the employer.

Q145. How do they control if a person is eligible for other coverage?

A145. The employee has a responsibility to notify the employer or will be subject to penalties.

Q146. How would anyone KNOW if the person has another eligible health program?

- A146. The employee has a responsibility to notify the employer or will be subject to penalties.
- Q147. Can employers require AEIs to sign an affidavit proving they do not have coverage elsewhere?
A147. No, employers are required to provide the notices and information issued through Tri-Agency guidance. If the employee lies, the employee will be subject to penalties. The employer will not be penalized.
- Q148. How would an employer know that the former employee found new employment....and when they are eligible for the new employer's insurance coverage?
A148. Employee is required to notify the employer. Failure to notify will result in penalties to the employee.
- Q149. Do we know how it will be known by the previous employer that they are eligible under a new plan? If they are continuing the plan without providing that information, and we as the previous employer are continuing to cover and claim credits no knowing... curious as to how that scenario is going to look?
A.149. Employee is required to notify the employer. Failure to notify will result in penalties to the employee.
- Q150. Is it on a self-reported basis if the employee became eligible for other group coverage since their loss of coverage?
A150. Yes, the employee must inform the employer. Failure to inform would result in a penalty to the employee.
- Q151. What if employee gets other employer coverage and doesn't notify you?
A151. Failure to notify the plan sponsor will result in a fine of \$250 or 100% of the premium amount.
- Q152. How do you know if someone has coverage available with new employer or Medicare? Assume the Participants provides this info?
A152. Yes, the employee is required to provide this information to the employer.
- Q153. Once Chard Snyder sends out our COBRA paperwork to our termed employee, is it the responsibility of the termed employee to elect COBRA to stay on our plan?
A153. Yes, the former employee has 60 days to elect coverage.
- Q154. Do employees need to opt in to receive the subsidy?
A154. The Covered Employee must elect COBRA continuation coverage and be an AEI based on the employer's determination to receive the subsidy.
- Q155. How would we know if someone becomes eligible under another employer?
How is that monitored if they get other coverage?
How would we (or HR Simplified) know of a prior employee became eligible with another employer (where they could continue free COBRA)?
We have a spouse of a terminated employee that is currently covered. How am I supposed to know if she is eligible for other coverage?
How can the former employer know who is eligible for coverage elsewhere?
A155. The employee is responsible to report subject to penalty for lack of reporting.
- Q156. How will employees getting the subsidy notify the COBRA admin if they become eligible for another plan? Will Chard Snyder ask for some sort of attestation?
A156. The employee must notify the plan administrator through the Participant Notification form.

Q157. The insurance carriers in our area are not saying that they are going to take the tax credit for under 20 EE groups. Currently, they are still billing the employer and requiring the employer to take the tax credit. Has anyone else seen this?

A157. We have not, but once we have more information, we will provide.

Q158. Will they receive a W-2 to note that they received the subsidy?

A158. The subsidy is not considered taxable income. A W-2 would not be provided to a Covered Employee merely for receiving the subsidy. Nonetheless, the cost of health coverage must be included in the Box 12 of the W-2 and if the Covered Employee received the COBRA subsidy, the amount should be included in the Box 12 for any applicable employer.

Q159. What proof will they need to provide for lack of eligibility?

A159. The employer will make the determination regarding eligibility, not the employee. If the employee is not determined to be eligible by the employer, the employee may submit a form to notify the employer of the "mistake." The employer would then be required to review the form and confirm if the employee is eligible or not for the subsidy.

Q160. Are we supposed to trust them to tell us if they become eligible for another plan?

A160. Yes, the employer should rely on the employee for notification.

EMPLOYER SPECIFIC

Q161. If an employer is of mini-COBRA group size, are the terminated employees eligible to enroll if they did not elect coverage when first eligible?

A161. Terminated employees are still eligible to enroll if their 18-month window (or eligibility window according to the state mini-COBRA law) has not expired.

Q162. How does this effect employers that are not subject to ERISA?

A162. The subsidy is available to any employer subject to COBRA under the IRC, ERISA, or the PHSa. In addition, the subsidy is available to any employer subject to state mini-COBRA provisions.

Q163. If an employee elects due to resignation not related to COVID are the rules the same. Also, if non-profit how to recoup costs?

A163. If an employee resigns, the employee would not be eligible for the subsidy. This is considered a voluntary termination. The employer may be able to receive an advance of the subsidy or offset taxes. Additional guidance is required from the IRS.

Q164. Does the AEI individual need to complete the 'Request for Treatment as an Assistance Eligible Individual Form' and return it back to us first before we start applying the subsidy? Or would we just automatically apply it.

A164. If you are an employer, the subsidy applies automatically. The form is completed, returned, and separately processed if the Covered Employee is initially determined ineligible and the Covered Employee wants to be considered for the subsidy.

Q165. Is a government entity required to participate?

A165. No. Employer is required to request a credit of taxes, but if subject to COBRA or state mini-COBRA requirements, must offer individuals in COBRA the subsidy.

Q166. So, for a self-funded employer - the employer is responsible for the claims during this time frame for those employees?

A166. Yes. The COBRA premium developed with an actuary should cover the cost of coverage.

Q167. What about EAP costs?

- A167. An EAP is a GHP and would also be covered under the subsidy.
- Q168. So, who pays for the employee's COBRA coverage during this 6-month period; is it the employer?
- A168. You will need to coordinate with the insurer unless you are self-insured and, in this case, would be responsible to pay for the coverage and apply for the credit. Thereafter, you will apply offset Medicare taxes by the COBRA premium payment or request an advance.
- Q169. Are we responsible for employees that left companies that we acquired?
- A169. You would need to review internal document and plan documents to determine if the plans merged, if the buyer plan took over the administration of the seller plan, etc. Please speak to independent counsel regarding this matter.
- Q170. If an employee wants to go back and retro coverage back to beginning of their eligibility period are, we required to allow them to do so or do we have discretion?
- A170. Due to the pandemic, ERISA covered plans must permit its Covered Employees a one-year period to elect coverage, outside of the subsidy. As such, the employee would have one year to elect coverage and retroactively pay. The employer must allow this. However, please note the employee cannot pick and choose months of coverage.
- Q171. What if we do not have the correct address for a termed employee? what is our responsibility? How would an employer know if an address has changed on a former employee who would be eligible? Is there a penalty for not having updated information on someone you may not have had contact with for some time?
- A171. The Covered Employee is responsible for updating their address by providing notice to the employer. If you have the old address and the employee is an AEI, you can send the notice to the last known address.
- Q172. Is there a difference in ER responsibilities between fully vs. self-insured plans?
- A172. The employer would have responsibility to review terminated employees eligible for COBRA beginning November 1, 2019 to present and note which employees are eligible because involuntarily terminated or if there was a reduction in hours.
- Q173. If a former employee has already informed us that they are enrolling in a new employer's plan- do we need to include them in the General Notice mailing?
- A173. No, the employee is not assistance eligible.
- Q174. What if an employee has had a job since leaving us but now are unemployed? Are we required to provide the subsidy?
- A174. No.
- Q175. So, who (or what termination period) do we need to go back and identify for review of eligibility?
- A175. An employer will have to look at all COBRA eligibility starting Nov 1, 2019 which would exclude any participants who had a qualifying event prior to October 1, 2019, a qualified beneficiary will not need to have elected COBRA previously.
- Q176. How much of the Medicare credit? Full premium credit?
- A176. Yes, up to the full Medicare tax. Any amount more than the Medicare tax would be refunded (an advance or additional offset would be provided to the employer).

TPA SPECIFIC

- Q177. What info does Chard Snyder need from the Plan Sponsor to initiate the mailing of the required election and subsidy notices, and when?
How is Chard Snyder going to help their clients with this process?
- A177. Please contact your consultant for the time frame. But the employer would have to review terminated employees eligible for COBRA beginning November 1, 2019 to present and note which employees are eligible because involuntarily terminated or if there was a reduction in hours.
- Q178. For the notices that will need to go out moving forward as part of this subsidy program, will providers (like Chard Snyder) automatically send out or do we as employer have to send those out separately? Also, same question for employees who were terminated between 10/2019 to 3/31/21?
- A178. Employers are responsible for the mailing, but TPA may perform the function for a fee. Please speak to your account representative.
- Q179. Can employees upgrade their plan(s)
- A179. No, an employee may only change to a plan of equal or lesser cost. The employer must also amend the plan to permit this change.
- Q180. Will our TPA send out the required notices to AEI's (we do report to them details of regulatory COBRA eligibility - e.g. involuntary term or reduction of hours)?
- A180. Not automatically. You will need to coordinate the sending of the notices with a your TPA. You must provide the additional information to the TPA and discuss costs with the team.
- Q181. If we outsource our COBRA, is the vendor responsible for this notice to former employees or is it the employer?
- A181. Employers are responsible for the mailing, but the TPA may perform the function for a fee. Please speak to your account representative.
- Q182. If our TPA only provide our COBRA notices to the associate, must they provide the notice to spouses and dependents for the subsidy?
- A182. Yes, the subsidy applies to the employee, spouse, and dependents.
- Q183. If we already use Chard Snyder and have sent them our terms up to date, will they send out the notices on our behalf or do we need to send our reps a new list of termed employees?
- A183. The employer will need to coordinate with their TPA to send out each required notice once.
- Q184. When will we need to have information to you, and will there be a formal request from Chard Snyder?
Will Chard-Snyder be sending us a model notice?
When will we be hearing directly from our COBRA Administrators? To provide the eligibility list, reviewing notices, etc.?
So, will our account rep be reaching out to us to get the process started on what is needed for the General notice mailing?
Since Chard Snyder will be sending (mailing) out the notice, are they going to be reaching out to us with a list of those that are eligible and what information they need to determine who to send the notice to?
When will Gold Leaf Partners be providing the list of folks who received a COBRA election packet between Nov 2019 - Mar 2021 to identify those who are eligible for the subsidy?
Will Chard Snyder's notices advise members of the right to notify the employer and the potential fines if they do not?
Will our TPA give us a document showing the subsidy and charges we paid for the mailings? So, we can apply that to the Medicare Taxes?

In terms of immediate next steps, will HR Simplified contact the employer to begin the process of identifying subsidy-eligible individuals?

What will the cost be to send the notices out? Does it include postage?

Are there specific instructions about how the notices are to be delivered to Assistance Eligible Individuals?

A184. Please work with your service representative for specific procedural next steps.

FLEXIBLE SPENDING ACCOUNTS

Q185. Can employees take advantage of the ARPA relief and enroll in the FSA even if they had not enrolled at the beginning of the plan year?

A185. No, the COBRA subsidy only applies to group health plans, with the exception of health FSAs and qualified small employer health reimbursement arrangements.

Q186. The temp increase is ONLY for dependent care, correct? No change to health FSA?

A186. Correct.

STATE MINI-COBRA

Q187. How does the subsidy work in correlation to state continuation?

A187. If the employer is not subject to COBRA under ERISA, the IRC, or PHSa, but the employer is subject to state mini-COBRA provisions, then the employer is required to provide the Alternate Notice to employees. The employees are then required to return the Request for Treatment as an Assistance Eligible Individual to the issuer for review and if determined the Covered Employee is eligible for the subsidy, the Covered Employee will not be required to pay the COBRA premium for the months of April to September 2021. Please note the issuer may contact the employer to complete the review of the Covered Employee's status as an AEI.

Q188. Related to state mini-COBRA does it depend on if the state is requiring it or does it apply to all states that offer mini-COBRA?

A188. If the group health plan is subject to state mini-COBRA requirements, its employees are eligible for the subsidy.

Q189. What about Cal-COBRA? Is this inly for federal?

A189. If the group health plan is subject to state mini-COBRA requirements, its employees are eligible for the subsidy.

Q190. We are a small group (less than 20) - subject of IL Continuation - do we pay the Continuation premium or does the carrier fund the premium? I have not heard anything from the carriers on this.

A190. It seems that the carrier will be able to receive the subsidy. You would then not have to pay or collect COBRA premiums. You should contact the carrier for additional information. The carrier may also apply any payments to future months.

Q191. In Ky, the under 20 employees Employers have KY continuation all to their terminated employees. But the ins carrier bills the terminated employees, not the Employer. Is this a mini COBRA? And is the Employer responsible to notify the terminated employee of the subsidy or the ins carrier.

A191. You must review your contract with the carrier. If the carrier is responsible for providing the COBRA general notice on behalf of the plan, the carrier may be responsible for this notice. Otherwise, the responsibility falls on the employer. The payment and processing of the subsidy would fall on the carrier.

NEED MORE GUIDANCE

Q192. Who enforces the \$250 fine?

A192. More guidance may be available in the future.

Q193. Can an employer take the COBRA tax credit & FFCRA tax credit both at the same time for each facet of the law?

A193. We are awaiting IRS guidance.

Q194. How do we claim the tax credit on payroll?

Can you review how employers obtain the credit?

How would the tax credits work if an individual selects in Sept for coverage from April to Sept but the 941s have been filed already for those quarters do you amend those returns or take the credits when you are notified?

A194. Additional guidance is required from the IRS.

Q195. If a company is an ESOP and doesn't pay federal income tax, how do they receive the reimbursement?

A195. You must await additional guidance from the IRS, but you may be able to receive an advance for the subsidy.

Q196. What happens if premium is more than Medicare tax?

A196. The employer may be eligible to receive an advance. We are awaiting additional guidance from the IRS.

MISCELLANEOUS

Q197. Have any letter templates been released by the DOL for notifications to former employees who qualify been released?

A197. DOL has released model language that must be updated by administrators and notices sent by May 31, 2021.

Q198. Is a retirement plan through your employer considered another group health plan?

A198. Yes, if you mean a retiree medical coverage plan.

Q199. What happens if mail is rejected? Maybe the person moved? What are the requirements for tracking them down?

A199. You must send the notice to the last known address. It is the Covered Employee's responsibility to notify you of an address change.

Q200. What is the guidance if the plan they were enrolled in is no longer an option (i.e. plan termination or acquisition where new plans are offered)?

A200. The employer can look to a similarly situated employee that continues to work for the employer and determine which options are available. These options would then be offered to the employee.

Q201. Who is the "plan sponsor" for MEWA plans? The employer?

A201. If the MEWA qualifies as a single employer plan under ERISA, the MEWA Board of Trustees would be the plan sponsor. If the MEWA is not a single employer plan under ERISA, each participating employer is the plan sponsor.