

# CLIENT ALERT

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\$1.9 Trillion COVID Relief Package  
Expected to be signed into law by  
President Biden

## **THIS APPLIES ALL EMPLOYERS OF ANY SIZE**

**The American Rescue Plan Act was signed into law this afternoon by President Biden. This most recent COVID-19 relief bill includes a multitude of key provisions that will affect employers. For brevity's sake, this Client Alert will address the COBRA/State Continuation stimulus that will be in effect starting April 1, 2021.**

**UPDATE - The American Rescue Plan Act of 2021 (ARPA), providing COVID-related relief in many forms, including premium subsidies for health insurance continuation under the Consolidated Omnibus Budget Reconciliation Act (COBRA), was signed into law on March 11, 2021. This Client Alert addresses a change to who pays for the subsidy if the employer is subject to COBRA and has a fully insured plan.**

APPLICABLE EMPLOYERS - all employers subject to federal COBRA as well as smaller employers in states that have State Continuation, also known as mini COBRA.

APPLICABLE PERSONS - employees who lost coverage involuntarily due to a reduction of hours or termination. This does not apply to children who aged out or spouses who lost coverage due to divorce or death of the employee but does apply to an affected employees' dependents. Nor does it apply to any employee who voluntarily quit employment. Employees are eligible to elect cobra on a prospective basis starting April 1, 2021 even if they have not elected COBRA previously.

SUBSIDY – 100% of COBRA/State Continuation premium from April 1, 2021 to the earlier of:

- September 30, 2021 or
- The normal expiration of continuation or
- When the individual becomes eligible for coverage under another group health plan or Medicare. Individuals will be required to notify their group health plan if they become eligible for other such coverage and will be subject to penalty if they fail to do so.

APPLICABLE BENEFITS - The wording in the 242-page act, starting on page 125, refers to health plans. In general, health plans subject to COBRA include medical, dental, vision and HRA Accounts. Note that State Continuation is normally only medical.

PAYMENT OF THE SUBSIDY – Insurance carriers for employers subject to State Continuation, Employers subject to COBRA for fully insured plans, self-insured plans (including level-funded) or in a Multiple Employer Welfare Arrangement will be responsible for the payment and will be able to recoup these payments through tax credits. NOTE - While we believe this to be accurate, we are waiting for clarification to our interpretation of this piece of the legislation.

ENROLLMENT OPTIONS - the act provides for a plan enrollment option which means that any individual who is eligible for a subsidy may change coverage to a lower cost option within 90 days of receiving the required employer notice. The act allows employers to determine whether they will allow an election into a lower cost plan.

#### WHAT'S NEXT

- The Secretary of Labor in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services is tasked with providing a model notice no later than 30 days after the date of the enactment of this act. If President Biden signs this act today, this means that the model notice may not even be available until after the subsidy is available. The act spells out the critical items that need to be included in the offer letter, such that COBRA Administrators may begin to draft their own letters in lieu of waiting for the model notice from the Secretaries. The act also states that the letter must coordinate compliance with the COBRA Extension Deadline Relief that was provided through EBSA Notice 2021-01 (See CHB Group Client Alert dated 2/28/2021)
- Employers should start to review their list of employees that lost coverage as of November 1, 2019 to identify who has left voluntarily and who lost coverage involuntarily.
- Where an employer knows that an employee who had an involuntary loss coverage has availability of other coverage those employees should be identified so as to not include them in a subsidy offer.
- If you offer more than one plan, determine if you will allow eligible individuals to opt into the lower cost option if they were not already in that plan.

For those employers subject to State Continuation as opposed to COBRA, we will be in touch with recommendations.

Start discussions with your COBRA vendor. For those employers who use our COBRA services, we have already started to work on this on your behalf. We will work with you to determine who was voluntarily versus involuntarily terminated so we know who to offer the subsidy to.

***Disclaimer: as additional information or clarification becomes available, we will continue to update you on this very important piece of the American Rescue Plan Act.***

***This notification is provided as for informational purposes only and is not meant to advise you of your entire obligations under this law/acts, nor to serve as legal advice. If you would like more complete information, please do not hesitate to contact our office, your accountant, or your attorney.***