

FREQUENTLY ASKED QUESTIONS: COBRA AND THE AMERICAN RESCUE PLAN ACT



BACKGROUND

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARPA) into law. Included in this legislation are important requirements related to COBRA, including subsidized coverage for certain Qualifying Event types and notice requirements.

WHO IS CONSIDERED ELIGIBLE FOR A 100% COBRA SUBSIDY?

Assistance Eligible Individuals (AEIs) are those who have been offered COBRA due to involuntary termination of employment or a reduction of hours, and who could have been covered under COBRA in April 2021 or a later due to a Qualifying Event of these types.

The Department of Labor's FAQ released on April 7, 2021, clarifies that an individual could be considered an AEI if they experience a reduction of hours Qualifying Event that occurs either due to change in a business's hours of operations, a change from full-time to part-time status, taking of a temporary leave of absence, or an individual's participation in a lawful labor strike, as long as the individual remains an employee at the time that hours are reduced. No additional clarification was provided regarding involuntary terminations.

Eligibility for additional coverage disqualifies an individual from being considered an AEI who is eligible for a COBRA subsidy. Disqualifying coverage includes group health plan coverage, such as through a new employer's plan or a spouse's plan (not including excepted benefits, a qualified small employer health reimbursement arrangement (QSEHRA), or a health flexible spending arrangement (FSA)), or Medicare.

AEIs who become eligible for other coverage and fail to provide notice of their eligibility for other disqualifying coverage may be subject to a penalty of \$250. If there is an intentional failure to notify, the individual shall pay a penalty equal to the greater of \$250; or 110% of the premium assistance provided under ARPA after ineligibility occurs. ARPA includes an exception if the failure to notify is due to reasonable cause and not to willful neglect.

WHEN IS THE SUBSIDY AVAILABLE?

COBRA subsidies are available beginning on the first day of the month following the enactment of the American Rescue Plan Act (April 1, 2021), and will expire on September 30, 2021.

ARPA does not extend the timeframe that COBRA benefits are available to a former employee and/or their covered dependents. If a qualified beneficiary's COBRA period expires before September 30, 2021, the subsidy eligibility will also end.

If an AEI's COBRA eligibility period will extend beyond September 30, 2021, the qualified beneficiary will be responsible for paying the full COBRA premium due beginning October 1, 2021.

WHY FLORES?

Flores has a proprietary technology platform. This means that all programs and file feed layouts are created and managed by Flores technology teams and never outsourced to third parties. This allows us to respond quickly to make necessary system changes when new legislation is released.

Flores has administered COBRA for over 25 years, including past subsidy periods under the American Recovery and Reinvestment Act of 2009 (ARRA). Our system is built to accommodate a range of subsidy and paid through options as well as event types. And most importantly, our technology is always backed by a dedicated Account Manager to help with your compliance and support needs. We are honored to be your partner.

FREQUENTLY ASKED QUESTIONS, CONTINUED:

DOES AN AEI HAVE TO HAVE AN ACTIVE COBRA ELECTION TO QUALIFY?

ARPA includes an extended election period provision that allows any individual who experienced a Qualifying Event that would have resulted in COBRA eligibility in April 2021, to elect coverage to be effective April 1, 2021.

In addition, an individual who elected COBRA and allowed coverage to lapse, but would have been eligible for coverage in April 2021, has the option to reinstate COBRA coverage effective April 2021 to take advantage of the subsidy.

Individuals who enroll during this extended election period are not able to continue coverage beyond the date when their original COBRA eligibility period would have expired. For example, an AEI who was offered COBRA that would have started on or after October 2, 2019, could elect subsidized coverage for all or a part of April 2021 only (April being their 18th month of COBRA eligibility).

Lastly, a COBRA qualified beneficiary is normally only able to elect the same coverage they had at the time of their Qualifying Event. ARPA also gives employers the additional option to allow Assistance Eligible Individuals to change their benefit election to enroll in a lower cost option.

NOTICE REQUIREMENTS

Individuals who may qualify for an extended COBRA election period and premium subsidy must be notified. Additional notice requirements will apply when subsidy eligibility is coming to an end.

Flores has updated its Qualifying Event notice language to comply with the latest model notices released by the Department of Labor in April 2021. New COBRA Qualifying Event notices issued on or after April 16th include updated model notice language and a Request for Treatment as an Assistance Eligible Individual form.

Notifications were sent to Flores clients on April 16th with a request to audit the existing COBRA Qualifying Event notice data in the Flores system. A per notice fee will be billed to clients who would like Flores to assist in sending ARPA notices to qualified beneficiaries who have already been offered COBRA. Flores intends to begin issuing these notices to confirmed AEIs in May 2021.

NEXT STEPS FOR EMPLOYERS AND THEIR ADVISOR PARTNERS

It is more important than ever that employers report accurate COBRA Qualifying Event reasons to Flores over the coming months so we are best able to assist potential AEIs. Flores requests that all employers correctly identify whether a Qualifying Event occurring due to termination of employment occurs for an involuntary or voluntary reason. Reduction of Hours can be noted when appropriate.

COBRA clients entering Qualifying Events through the Flores247.com Employer Portal have the ability to select Termination – Voluntary, Termination – Involuntary and Reduction of Hours as the QE reason. For COBRA clients that have a file feed in place, we strongly encourage you to connect with your file vendor to ensure that the correct QE reason code is passed on your file feed. Any clients who are unable to make changes to file feeds, or still in the process of doing so, will need to review and adjust the COBRA Event reason for each COBRA Qualifying Event after your weekly file is processed.

THANK YOU FOR YOUR CONTINUED TRUST AND COOPERATION.

For additional questions regarding ARPA's impact on cobra, please contact your dedicated Account Manager or Business Development Partner at (800) 532-3327.