

*This post is for general informational purposes only and should not be considered to constitute legal advice.*

## Employment Update: Employer Obligation to Provide COBRA Subsidy *Posted April 8, 2021*

The American Rescue Plan Act of 2021 (ARPA) created an obligation for employers to fully subsidize COBRA premiums between April 1, 2021 and September 30, 2021 (the “subsidy period”) for eligible employees. Below are some key points and a link to the DOL’s website containing helpful information.

Eligible employees are defined as:

1. Employees involuntarily terminated for reasons other than gross misconduct during subsidy period (termination does not need to be COVID-related);
2. Employees previously terminated involuntarily for reasons other than gross misconduct who initially elected and will continue receiving COBRA coverage during subsidy period and those who did not elect or elected and discontinued but are still within the allowable 18 month entitlement period (18 months after termination of employment).
3. Employees who have lost health coverage because of reduction in hours.

### Good news

The premiums employers pay on behalf of employees through this entitlement are fully reimbursed through a tax credit on [the employer’s quarterly payroll tax filings](#).

### How much do you have to pay and for how long?

- The required subsidy ends if employee becomes eligible for coverage under another group health plan or Medicare
- This is in addition to any other contractual or other arrangement (like a severance agreement) that provided for COBRA coverage, meaning during this period of time COBRA subsidies cannot be consideration for a release.

### Required Notice:

- By May 31, 2021 employers must notify those individuals who were eligible before April 1 about the options for coverage
- At termination during the subsidy period (now), employers must provide the updated COBRA notice

### DOL Link

Department of Labor (DOL) has issued a model notice and a helpful FAQ. You can find them both here: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>

What to Do: Identify previously terminated employees who would be eligible and provide notice by May 31.

Review your current termination practice to make sure it is compliant during this subsidy period (for example, drop COBRA payments as consideration for severance release). Review the DOL website and contact us with questions.