

Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

MARCH 2021

The American Rescue Plan Act of 2021: Federal COBRA subsidy

[Sean Silva](#), FSA, MAAA, CEBS | [Michael Halford](#), FSA, MAAA | [Katy Mohr](#)

The American Rescue Plan Act of 2021 (ARPA), signed into law on March 11, 2021, is a \$1.9 trillion stimulus package, meant to provide economic aid in response to the global coronavirus pandemic.

Effective April 1, 2021, through September 30, 2021, the federal government will subsidize premiums for COBRA coverage at 100%. In addition, the legislation extends the COBRA election period for individuals who would have been eligible for payment assistance but did not elect or discontinued COBRA coverage prior to April 1, 2021.

The intent of this Multiemployer Alert is to provide plan sponsors with information regarding the federal COBRA subsidy and its potential effects on plan sponsors and participants.

ELIGIBILITY AND GENERAL TERMS

Effective April 1, 2021, any covered participant who experiences loss of coverage in a COBRA-qualifying event (other than voluntary separation of employment) is eligible for a 100% premium subsidy for COBRA coverage for themselves and their eligible dependents, so long as they elect such coverage within 60 days of being notified of COBRA eligibility. Any participants who make COBRA payments while eligible for the federal COBRA subsidy must be reimbursed in full.

Plan sponsors that offer more than one health plan option may provide participants eligible for the federal COBRA subsidy the opportunity to elect COBRA coverage under a plan that is different from the one they were enrolled in prior to the COBRA-qualifying event. If allowed for by the plan sponsor, participants can elect a different plan under COBRA so long as it was a plan option for participants at the time of election and the COBRA premium is equal to or less than in the plan they were enrolled under prior to the COBRA-qualifying event.

The federal COBRA subsidy will end for an eligible participant on the first day of the month following the earliest of:

- The date a participant becomes eligible for coverage under any group health plan or Medicare
- The date of the expiration of COBRA coverage
- For participants who gain coverage through the extended election period, the date of the expiration of their COBRA coverage had there been no extended election
- September 30, 2021

ELECTION PERIOD EXTENSION

Under the ARPA, participants who experienced loss of coverage in a COBRA-qualifying event (other than voluntary separation from employment) and did not elect COBRA or elected COBRA but subsequently discontinued COBRA coverage prior to April 1, 2021, are also eligible for the federal COBRA subsidy and can enroll in COBRA coverage provided their COBRA benefits would not have expired prior to April 1, 2021.

The election period extension begins April 1, 2021, and ends 60 days after the participant receives a COBRA eligibility notification from the plan sponsor. COBRA benefits for participants who take advantage of the election period extension would begin on April 1, 2021, to align with the beginning of the subsidy period.

Eligible participants who elect COBRA coverage under the election period extension are not allotted a full COBRA term beginning at the date of election. The term of their COBRA coverage begins with their original COBRA-qualifying event and initial notification from the plan sponsor.

NOTICE REQUIREMENTS FOR PLAN SPONSORS

Similar to the normal notification period, plan sponsors have 30 days to provide notice of eligibility for COBRA coverage to participants who experience loss of coverage in a COBRA-qualifying event after April 1, 2021. For participants who experienced loss of coverage in a COBRA-qualifying event prior to April 1, 2021, but qualify for the election period extension, plan sponsors must provide notice of eligibility for COBRA coverage within 60 days of April 1, 2021. Notices of eligibility for COBRA coverage must contain the following information:

- The availability of and the conditions to be eligible for the federal COBRA subsidy
- The ability to enroll for COBRA under a different plan option, if permitted
- The documents necessary to confirm eligibility for the federal COBRA subsidy
- Contact information for the plan sponsor or other contact for information regarding the federal COBRA subsidy
- A description of the extended election period
- A description of the obligation of qualified beneficiaries and associated penalties

In addition, the plan sponsor must notify COBRA participants that their eligibility for the federal COBRA subsidy will end no sooner than 45 days and no later than 15 days prior to the end of eligibility for the subsidy. This notice must state whether a participant is eligible to continue COBRA coverage without the federal COBRA subsidy.

The U.S. Secretary of Labor, within 30 days from enactment, is to issue model notices plan sponsors can use to notify eligible individuals of the availability of assistance and the extended COBRA enrollment period. The Secretary of Labor, within 45 days from enactment, is to issue model notices plan sponsors can use to notify COBRA participants of the expiration of the subsidy.

NOTICE REQUIREMENTS FOR PARTICIPANTS

Participants receiving the federal COBRA subsidy must provide notification to the plan sponsor if they become ineligible for the subsidy by becoming eligible for coverage under another group health plan. Participants who fail to notify the plan sponsor in a timely manner will be charged a \$250 penalty unless they can prove that the failure to provide such notification was not intentional or had a reasonable cause. Participants who intentionally fail to notify the plan sponsor must pay a penalty to the federal government equal to the greater of \$250 or 110% of the federal COBRA subsidy provided after loss of subsidy eligibility. The Secretary of Labor is expected to establish a timeline for notification to the plan sponsor.

CLAIMING THE FEDERAL COBRA SUBSIDY

The federal COBRA subsidy is a refundable tax credit against payroll taxes. If a plan sponsor does not have a payroll tax liability (such as a multiemployer health plan), it will still be able to claim the federal COBRA subsidy. The U.S. Department of Treasury and the Internal Revenue Service (IRS) are expected to issue guidance soon regarding claiming the federal COBRA subsidy.



IT TAKES VISION®

Milliman is among the world's largest providers of actuarial and related products and services. The firm has consulting practices in life insurance and financial services, property & casualty insurance, healthcare, and employee benefits. Founded in 1947, Milliman is an independent firm with offices in major cities around the globe.

[milliman.com](https://www.milliman.com)

CONTACT

Sean Silva
sean.silva@milliman.com

Michael Halford
michael.halford@milliman.com

Katy Mohr
katy.mohr@milliman.com

Multiemployer Alert: Update on Issues Affecting Taft-Hartley Plans is intended to provide information and analysis of a general nature. Application to specific circumstances should rely on separate professional guidance.