



PA 21-06

TO: Health Benefits Administrators of Participating Agencies
FROM: Employee Benefits Division
SUBJECT: American Rescue Plan Act of 2021 and COBRA Premium Subsidy
DATE: May 10, 2021

The American Rescue Plan Act of 2021 (ARP) makes significant changes to the Consolidated Omnibus Budget Reconciliation Act (COBRA) Continuation Rules. ARP makes subsidies available for the full cost of COBRA premium for certain individuals who are enrolled in COBRA during periods of coverage from April 1, 2021 through September 30, 2021. This is known as COBRA with premium assistance. Qualifying individuals should be enrolled in COBRA coverage at no cost to them for this time period if they meet the criteria.

According to ARP guidelines, to be eligible to enroll in COBRA with premium assistance, individuals:

- **MUST** have experienced a COBRA-qualifying event that is a reduction in hours or an involuntary termination (other than for gross misconduct) of a covered employee's employment.
- **MUST** elect COBRA continuation coverage within 60 days of receipt of the COBRA election form.
- **MUST NOT** be eligible for Medicare; AND
- **MUST NOT** be eligible for coverage under any other group health plan, such as a plan sponsored by a new employer or a spouse's employer.

As you are aware, Participating Agencies are responsible for administering COBRA continuation coverage for their employees. Therefore, it is your agency's responsibility to administer these additional COBRA requirements. Such actions under ARP include identifying individuals who may be eligible for this benefit, providing them with written notifications, approving eligibility for premium assistance, and enrolling eligible individuals in COBRA with premium assistance.

Please note, ARP imposes specific notice requirements that must be provided to certain individuals by May 31, 2021. You will find details about these requirements, including COBRA model notices, on the [U.S. Department of Labor website](#). EBD also recommends your agency work with its Counsel to ensure compliance.

All Participating Agencies are required to offer COBRA with premium assistance to qualifying individuals who are currently enrolled in COBRA. Furthermore, if your agency is required to offer COBRA coverage under federal law (federal COBRA), it will have to provide an additional

opportunity for certain individuals to elect COBRA coverage with premium assistance during a 60-day Extended Election Period. This opportunity is for individuals who are eligible for COBRA coverage with premium assistance under ARP and who are not currently enrolled in coverage, but who experienced a COBRA qualifying event in which their maximum 18-month period for COBRA continuation coverage under federal law would extend through April 1, 2021 if they had been enrolled in COBRA. Federal COBRA law generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity to enroll in COBRA continuation coverage. It is your agency's responsibility to determine if it is subject to federal COBRA. Your agency should refer to its Counsel with any questions it may have. The Employee Benefits Division (EBD) cannot provide specific guidance to your agency regarding its responsibility for COBRA administration.

NYBEAS Processing Instructions

For individuals who are currently enrolled in NYSHIP COBRA benefits and your agency determines are eligible to receive COBRA with premium assistance, note in the comments on the enrollees' NYBEAS file that they are eligible to receive COBRA premium assistance through ARP.

For individuals who newly experience a COBRA Qualifying Event and who your agency determines are eligible to receive COBRA with premium assistance, you should process the COBRA enrollments in NYBEAS as usual, and note in the comments on the enrollees' NYBEAS file that they are eligible to receive COBRA premium assistance through ARP.

Agencies subject to federal COBRA must offer certain individuals the right to enroll in COBRA with premium assistance effective April 1, 2021 or the date of election. This may result in a break in coverage from the time they were last enrolled until when they start COBRA with premium assistance. NYBEAS does not allow Participating Agency HBAs to process an enrollment transaction for COBRA if there is a break in coverage. Therefore, the re-enrollment transaction must be completed by EBD. For these individuals, you should provide the following to EBD:

- A completed [PA Health Insurance Transaction Form \(PS-503\)](#) signed by you or another agency HBA. You or another agency HBA should also note in the "Action/Reason" part of the form that this is an enrollment under "COBRA ARP"; **or**
- A copy of the individual's COBRA enrollment application, including all of the following:
 - the names of all persons who will be enrolled;
 - the current mailing address(es) for all persons enrolled;
 - the effective date of coverage; and
 - the agency HBA's signature for authorization.

The documentation can be sent to EBD by fax to (518) 485-5590 or by mail to:

New York State Department of Civil Service
Employee Benefits Division

Attn: PA/PE Unit
Albany NY 12239

NYSHIP Billing Information

Your agency will be required to remit payment for individuals who elect and qualify for COBRA with premium assistance to the New York State Department of Civil Service. No change will be made to the monthly bill your agency receives. Your agency should seek reimbursement for COBRA premiums paid on behalf of individuals eligible for COBRA with premium assistance from the federal government through a Medicare payroll tax credit. According to ARP guidelines, employers are prohibited from collecting COBRA premiums from subsidy-eligible enrollees and reimbursing them once the employer has received the tax credit.

Employers that do not satisfy COBRA continuation coverage requirements may be investigated by the Department of Labor and may be subject to an excise tax under the Internal Revenue Code.

For more information regarding premium assistance under ARP and eligibility questions, enrollees may visit: <https://www.dol.gov/cobra-subsidy>, may contact the Department of Labor at <https://www.askebsa.dol.gov>, or call 1-866-444-EBSA (3272). EBD recommends that you familiarize yourself with the Department of Labor guidelines and information. As the HBA, you will be the point of contact for individuals affiliated with your agency who will have questions about COBRA ARP.