

March 12, 2021

American Rescue Plan Act Provides Coronavirus Relief

President Biden has signed legislation that funds another round of assistance as the nation copes with the health and economic effects of the coronavirus pandemic. Several previous bills in 2020 provided direct cash benefits to Americans, created a small business lending program to help employers retain employees, and provided enhanced access to tax-favored retirement savings.

This latest round of relief, a \$1.9 trillion stimulus bill known as the [American Rescue Plan Act of 2021](#) (ARPA), contains a third round of direct payments to Americans, funding to help hard-hit industries, and many other provisions—including some that will affect health plans and defined benefit plans.

Health Plan Relief

ARPA's health-related provisions are meant to help individuals who have suffered a job loss or a reduction of hours to maintain their health insurance coverage. The following text summarizes the most important health plan-related provisions.

COBRA Continuation Coverage Premium Assistance

ARPA provides premium assistance for COBRA continuation coverage. This type of coverage allows eligible individuals who lose their health benefits to continue participating in their group health plan for a limited period of time.

The premium assistance is designed to help both employees and employers. For example, premium assistance can help former employees keep their employer health plan coverage at a critical time. COBRA coverage can be prohibitively expensive—individuals may have to pay up to 102 percent of the cost to the plan—which discourages enrollment in many circumstances. If the premium is subsidized, employees are more likely to opt for COBRA coverage. When faced with a serious medical event, individuals and families who have this coverage can avoid potentially catastrophic financial consequences.

Premium reimbursement can help employers by ensuring increased COBRA coverage enrollment. Having a large number of COBRA enrollees can help employers spread costs over a greater number of healthy individuals who will pay premiums without having significant claims (as opposed to having only individuals with substantial medical costs enrolled in COBRA coverage).

Premium Assistance Basics

ARPA effectively provides free COBRA coverage by creating a subsidy that pays 100 percent of the COBRA premiums. Normally, the individual who is enrolled in COBRA coverage would need to pay these premiums. ARPA authorizes payment for premiums arising from COBRA coverage during the period beginning on April 1, 2021, and ending on September 30, 2021. This premium assistance is available only for certain categories of individuals who are enrolled in COBRA coverage during this period. These "assistance eligible individuals" include the following persons:

- Employees who are eligible for COBRA coverage because of involuntary termination of employment for reasons other than gross misconduct. (A key feature of the relief is that employees who *voluntarily* terminate are not eligible for the subsidy.)
- Employees who are eligible for COBRA coverage because of a reduction in hours that causes them to lose eligibility for their employer's health plan.
- Dependents of the employees who have lost eligibility for the reasons indicated above.

COBRA-eligible individuals who meet these criteria and who either 1) have not yet enrolled in COBRA coverage, or 2) had already enrolled in COBRA coverage but discontinued their coverage, have an additional 60 days to elect COBRA

coverage and to take advantage of the subsidy. The 60-day enrollment period will begin on the date that the individual receives an ARPA-required notice that explains both the subsidy itself and the individual's extended opportunity to elect COBRA continuation coverage.

The subsidy is "paid" through a tax credit that is provided to the employer sponsoring the health plan or to the insurer providing the coverage when an individual enrolls in COBRA coverage.

ARPA also permits employers—at their discretion—to allow individuals who are eligible for the subsidy to enroll in different coverage also offered by the employer, as long as the other coverage is also offered to other similarly situated active employees and

- does not exceed the premium cost of the health coverage initially enrolled in,
- does not provide excepted benefits only, and
- is not a qualified small employer health reimbursement arrangement (QSEHRA) or a flexible spending arrangement (FSA).

Premium Assistance Notification

Because awareness of the subsidy is critical to increasing COBRA enrollment, employers must communicate the availability of premium assistance and the option to enroll in different coverage (if allowed). Individuals must receive the additional notification within 60 days of becoming eligible. Employers may provide the disclosures by amending existing notices or by including a separate document with the COBRA election notice.

Within 30 days following the bill's enactment, the Departments of Labor (DOL), Treasury, and Health and Human Services must issue model notice language to help employers comply with the COBRA premium assistance notification requirements. Specifically, the model notices must include:

- the forms necessary to establish eligibility for premium assistance;
- the plan administrator's or other party's contact information—including name, address, and telephone number;
- a description of the extended election period provided;
- a description of the qualified beneficiary's penalty for failure to notify the plan if eligibility for premium assistance ceases;
- a description of the qualified beneficiary's right to a reduced premium and any conditions on entitlement to the reduced premium; and
- a description of the qualified beneficiary's option to enroll in different coverage (if the employer permits).

Expiration of Premium Assistance

Eligible individuals will generally receive subsidized premiums for coverage beginning on April 1, 2021, and ending on September 30, 2021. Individuals will become ineligible for premium assistance during that period if they

- reach the maximum period for COBRA coverage, or
- become eligible to be covered under another group health plan.

For individuals who reach the maximum period of COBRA coverage, a notice must be provided 15 to 45 days before the expiration of premium assistance. The notice must prominently identify the expiration date. To help employers comply with the requirement, the DOL must produce model notices to communicate the expiration of premium assistance 45 days following ARPA's enactment.

If, during the period of COBRA coverage, individuals receiving the subsidy become eligible for coverage under another health plan, they must notify the plan that they are no longer eligible for premium assistance. Failure to notify the plan will result in a \$250 penalty. If an individual intentionally fails to notify the plan, the penalty could be up to 110 percent of the premium assistance amount. The penalty does not apply if there is a reasonable cause for the failure to notify.

Tax Provisions for Premium Assistance

The premium assistance amount will not be included in the individual's gross income for federal tax purposes.

Defined Benefit Plan Relief

ARPA's retirement-related provisions are designed to provide relief to single-employer and multiemployer defined benefit (DB) plans. Following is a high-level summary of these provisions.

Amortization Relief for Single-Employer DB Plans

ARPA includes provisions that treat a single-employer DB plan as having no funding shortfall bases, and no shortfall installments from the bases, in prior years and spreads out funding shortfall installments to 15 years. These changes have the effect of reducing an employer's minimum required contributions.

Extension of Pension Funding Stabilization Percentages for Single-Employer DB Plans

The three segment rates used for the applicable interest rates are provided with minimum and maximum percentages, effectively stabilizing the rates to be applied in future years. ARPA provides funding relief in a time of lower interest rates by setting the minimum percentage at a five percent "floor." A plan can elect not to have this provision apply in plan years before 2022.

Multiemployer DB Plan Relief

ARPA provides relief for certain underfunded multiemployer plans for 2020 and 2021 plan years—including retention of the preceding plan year's plan status (endangered, critical, etc.), extension of the plan's funding improvement period or rehabilitation period (whichever is applicable) by five years, and use of a 30-year amortization base when amortizing investment losses.

Special Assistance Program for Multiemployer Plans at the Pension Benefit Guaranty Corporation (PBGC)

A special fund will be created for struggling multiemployer plans that are most vulnerable. The fund will provide financial assistance in the form of a lump-sum payment sufficient to provide benefits through 2051. Plans receiving this assistance must comply with additional conditions, including reinstating previously suspended benefits. For plan years beginning after December 31, 2030, multiemployer plan premiums to the PBGC will increase to \$52 per participant.

Community Newspaper DB Plans

Certain community newspapers with DB plans can elect to take advantage of more favorable interest rates and amortization periods. They can also avoid some at-risk DB plan requirements.

Next Steps

Employers with defined benefit plans should start reviewing the new rules so they can take full advantage of the relief provided by the American Rescue Plan Act. Single-employer DB plans may want to consider whether to opt into or out of the relief. The stabilization percentages will automatically apply for 2020 if employers don't opt out.

Employers with health plans should:

- work with COBRA service providers (if applicable) to meet the new COBRA notification requirements,
- understand how premium amounts are reimbursed through the payroll tax credit process, and
- coordinate with payroll providers and tax professionals to help ensure proper documentation and tax payments.

We will closely monitor all future ARPA-related guidance.