

Examining COBRA and Other Key Benefit Changes for Employers Under the American Rescue Plan Act (ARPA)

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Session Panelists



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OVERVIEW OF DISCUSSION

- COBRA Basics
- New ARPA COBRA subsidy
- Mechanics of Subsidy
- Changes to Dependent Care FSA
- Pension Plan Changes
- ACA Subsidy Changes
- Executive Compensation

COBRA BASICS

- COBRA provides for continuation of healthcare benefits for certain individuals after qualifying events
 - Qualified individuals are employees covered by a group health plan
 - Qualified beneficiaries
 - Individual experiences a qualifying event that, but for COBRA, would result in the employee's loss of coverage
 - Timelines

PRE-ARPA COBRA RULES IN EFFECT FOR COVID-19

- “Outbreak Period” deadline tolling
- Allows electronic notification if employers reasonably believes covered individuals have access to digital mediums
- These do not apply to the ARPA changes

ARPA & COBRA

- Starting April 1, 2021, COBRA offered with 100% subsidy through September 30, 2021
- Subsidy effected through a tax credit to payroll tax withholding
- Subsidy only available to Assistance Eligible Individuals (AEI)

EMPLOYEE COVERAGES

- AEs are eligible for the subsidy starting April 1, 2021
- AEs include those who both:
 - Lose coverage because of an involuntarily termination or an involuntary reduction in hours
 - Who as of April 1, 2021, are still on or would still be on COBRA continuation coverage had they not failed to elect or had not voluntarily ceased coverage
- AEs are not those who:
 - Have not experienced a loss coverage
 - Who have voluntarily quit
 - Who have been denied COBRA because of gross misconduct

ADMINISTRATIVE CONSIDERATIONS

- Because of the short rollout period, employers should already have started planning how to administer the new COBRA subsidies and notices
- Tracking premium payments: Coordinate with your employment tax filer and your COBRA administrator, two entities that do not normally need to coordinate

COBRA ONLINE PORTAL

- You will receive an email from iSolved instructing you to visit your COBRA Online Portal. Please be on the lookout for this email.

From: support@isolvedhcm.com <support@isolvedhcm.com>
Sent: Friday, April 16, 2021 9:20 AM
To: Client Name
Subject: ACTION NEEDED: Identify Assistance Eligible Individuals for ARPA 2021

Please visit the COBRA Online Portal. You will be directed to a list of Qualified Beneficiaries who may be Assistance Eligible Individuals (AEI). Your identification of each individual as an AEI or non-AEI is necessary.

Within the portal, you will find a section labeled as “Assistance Eligible Individuals” under the Qualifying Events menu items to the left. On this page, you will find the employee’s name, offered coverages, the original event reported to isolved Benefit Services along with their event date. We ask that you check the box to AEI-Yes or AEI-No to designate if the participant does meet the requirements to be an AEI. We have, by default, checked any that have an event of involuntary termination or reduction of hours. You can change these or leave them blank if you need to research before submitting the data to us. Once submitted, isolved Benefit Services will use this information to generate Special Second Election Notices (as required) and/or apply the 100% federally paid subsidy.

Please refer to our COVID-19 Resource Page for more detailed definitions, as needed.

Accounts affected:

Your Company Name (Your Account Number) = # of qualifying events

If you have any questions, please reach out to the Customer Support Team at 866-320-3040 or via email at crmail@isolvedhcm.com.

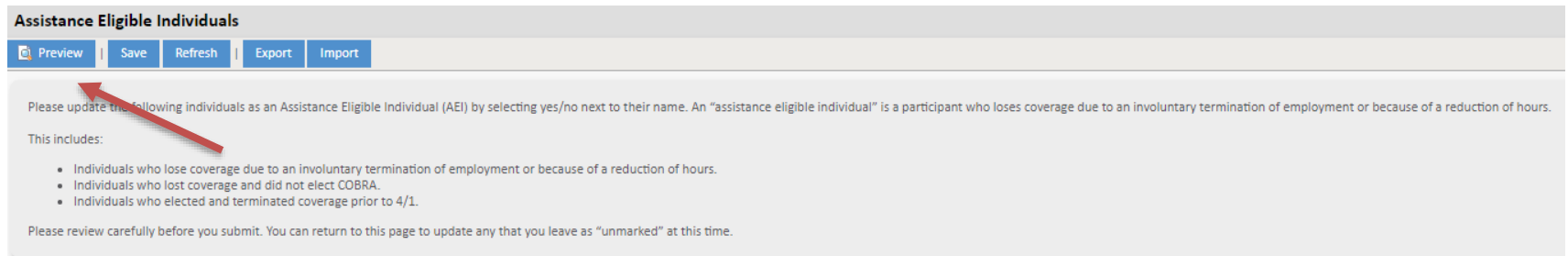
COBRA ONLINE PORTAL

- Next, log on to your COBRA Administration Portal and identify those who are or are not Assistance Eligible Individuals (AEIs).

Event Type	Event Date	AEI - Yes	AEI - No
<input type="text"/>	<input type="text"/> ▼	<input type="button" value="Check All"/>	<input type="button" value="Check All"/>
Involuntary Termination of Employment	1/2/2020	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Involuntary Termination of Employment	5/29/2020	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Involuntary Termination of Employment	4/15/2020	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Involuntary Termination of Employment	7/8/2020	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Involuntary Termination of Employment	5/29/2020	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Involuntary Termination of Employment	5/28/2020	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Involuntary Termination of Employment	5/29/2020	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Involuntary Termination of Employment	4/1/2020	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Involuntary Termination of Employment	4/15/2020	<input type="checkbox"/>	<input checked="" type="checkbox"/>

COBRA ONLINE PORTAL

- To complete the submission process, preview your AEI designations.



Assistance Eligible Individuals

Preview | Save | Refresh | Export | Import

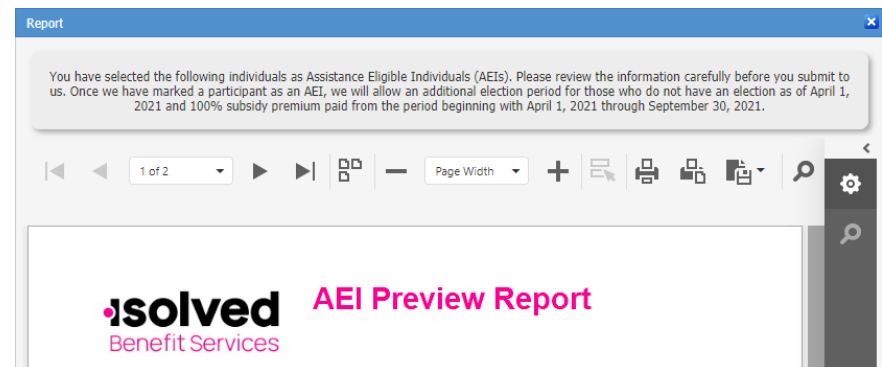
Please update the following individuals as an Assistance Eligible Individual (AEI) by selecting yes/no next to their name. An "assistance eligible individual" is a participant who loses coverage due to an involuntary termination of employment or because of a reduction of hours.

This includes:

- Individuals who lose coverage due to an involuntary termination of employment or because of a reduction of hours.
- Individuals who lost coverage and did not elect COBRA.
- Individuals who elected and terminated coverage prior to 4/1.

Please review carefully before you submit. You can return to this page to update any that you leave as "unmarked" at this time.

- A new screen will open with your selections



Report

You have selected the following individuals as Assistance Eligible Individuals (AEIs). Please review the information carefully before you submit to us. Once we have marked a participant as an AEI, we will allow an additional election period for those who do not have an election as of April 1, 2021 and 100% subsidy premium paid from the period beginning with April 1, 2021 through September 30, 2021.



1 of 2 | Page Width

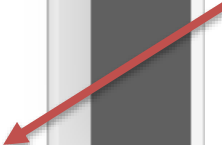
isolved Benefit Services **AEI Preview Report**

COBRA ONLINE PORTAL

- After you preview your selections, click on the “Submit” button. This will clear the AEI designation screen so that only new potential AEIs will appear there as you go forward.

1/2/2020, Involuntary Termination of Employment	Yes
5/29/2020, Involuntary Termination of Employment	Yes
4/15/2020, Involuntary Termination of Employment	No
7/8/2020, Involuntary Termination of Employment	Yes
5/29/2020, Involuntary Termination of Employment	No
5/28/2020, Involuntary Termination of Employment	Yes
5/29/2020, Involuntary Termination of Employment	Yes
4/1/2020, Involuntary Termination of Employment	No



- You will then receive an emailed report detailing the information received as part of your submission.

NOTICE UPDATES

- A notice will then go out to the appropriate individuals. If the individual chooses to elect COBRA continuation coverage with premium assistance, they must complete the “Request for Treatment as an Assistance Eligible Individual” and the Election Form provided in the notice.

To apply for ARP Premium Assistance, complete this form and return it to your plan or employer. If you have not yet elected COBRA continuation coverage, you may send this form along with your Election Form. If you do not complete this form and return it within 60 days of receipt, you may be unable to receive the premium assistance.

If you are already enrolled in COBRA, you may send this form separately. If you choose to do so, send the completed “Request for Treatment as an Assistance Eligible Individual” to: *[Enter Name and Address]*

You may also want to read the important information about the rules for premium assistance included in the “Summary of the COBRA Premium Assistance Provisions Under the American Rescue Plan Act of 2021.”

<i>[Insert Plan Name]</i>	REQUEST FOR TREATMENT AS AN ASSISTANCE ELIGIBLE INDIVIDUAL	<i>[Insert Plan Mailing Address]</i>
PERSONAL INFORMATION		
Name and mailing address of employee (list any dependents on the back of this form)	Telephone number	
	E-mail address (optional)	
To qualify, you must be able to check ‘Yes’ for all statements.		
1. The qualifying event was a loss of employment that was involuntary or a reduction in hours.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. I elected (or am electing) COBRA continuation coverage.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. I am NOT eligible for other group health plan coverage (or I was not eligible for other group health plan coverage during the period for which I am claiming premium assistance).	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. I am NOT eligible for Medicare (or I was not eligible for Medicare during the period for which I am claiming premium assistance).	<input type="checkbox"/> Yes <input type="checkbox"/> No	
I make an election to exercise my right to ARP premium assistance and attest that I meet the requirements for treatment as an Assistance Eligible Individual. To the best of my knowledge and belief all of the answers I have provided on this form are true and correct.		
Signature → _____	Date → _____	
Type or print name → _____	Relationship to employee → _____	

COBRA Continuation Coverage Election Form

Instructions: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan, unless you are entitled to additional time under a federal policy or program. For example, you may be entitled to more time because of a national emergency. However, if you fail to elect COBRA continuation coverage and the premium assistance within 60 days of receipt of this form, you may be ineligible for the premium assistance under the ARP.

Send completed Election Form to: *[Enter Name and Address]*

This Election Form must be completed and returned by mail *[or describe other means of submission and due date]*. If mailed, it must be post-marked no later than *[enter date]*.

If you don't submit a completed Election Form by the due date shown above, you may lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you submit a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you submit the completed Election Form.

Read the important information about your rights included in the pages after the Election Form.

I (We) elect COBRA continuation coverage in the *[enter name of plan]* (the Plan) listed below:

Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
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a. _____
[Add if appropriate: Coverage option elected: _____]

b. _____
[Add if appropriate: Coverage option elected: _____]

c. _____
[Add if appropriate: Coverage option elected: _____]

Signature _____ Date _____

Print Name _____ Relationship to individual(s) listed above _____

Print Address _____ Telephone number _____

NOTICE UPDATES

- New notice requirements:
 - Notice of subsidy, which needs to go out by May 31, 2021
 - Notice of end of subsidy, which needs to go out between 15 and 45 days of when the subsidy will end
- New notices have been provided on the DOL website. To view the complete documents, visit <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>

PAYROLL TAX CREDITS

- Employers are required to pay all COBRA premiums and will then be reimbursed through payroll tax credits.
- The credits are a dollar-for-dollar reimbursement for AEI's subsidized COBRA premiums.
- Notify CTR if you are using the payroll tax credits. We will instruct you how to enter this information to obtain the credits.
- A new credit type will be added to the existing Business Credit screen to enter those credit amounts on a future tax payment.
- At this time, CTR is awaiting additional instruction from the IRS.

DEPENDENT CARE FSA

- For the 2021 plan year, the limit is being increased from \$5,000 to \$10,500
- This is an optional provision
- If you want to apply it, notice of the change needs to be provided to participants and a short plan amendment will need to be drafted
- This is a very low or likely no cost increase for participants that helps participants
- There is no equivalent increase for health care FSAs

DEPENDENT CARE FSA

- Notify CTR if you choose to increase the maximum contribution for your Dependent Care FSA.
- CTR will adjust your Dependent Care FSA plan in iSolved to allow for an increased contribution limit.
- The optional higher contribution limits will apply to the plan year which started January 1, 2021, and which ends December 31, 2021.

SINGLE EMPLOYER RETIREMENT PLAN CHANGES

- Pension plan:
 - In 2022 (and at your discretion, in 2019-2021) unfunded liabilities can be amortized over 15 years, rather than over 7 years
 - Interest rate stabilization is a very technical issue, but the minimums were favorably improved and is effective next year (2022), unless you voluntarily apply it early
- No changes on the 401(k) profit sharing side

ACA SUBSIDIES

- ARPA increases tax credit available for healthcare coverage through ACA exchanges
 - Effected through a reduced contribution requirement for credit eligibility
 - Previously had to contribute 9.83% of annual income to receive credit, lowered to 8.5% at upper threshold
 - Eliminates income cap for tax credit availability, previously capped at 400%
- Takes effect April 1, 2021
 - Existing enrollees can reselect a plan to become eligible for the credit
 - Full credit available for individuals on unemployment during the year

MULTIEMPLOYER PENSION PLAN CHANGES

- Funding status can be frozen for either 2020 and 2021. Improvement or rehabilitation plans also does not be updated in the same year.
- Plans in critical or endangered status can extend their improvement or rehabilitation plans by 5 years
- Investment losses and other COVID related losses in the 2021 and 2022 plan years can be amortized over 30 years, rather than the 15 years currently permitted for similar losses
- PBGC per participant rate is increased to \$52 (from \$31) starting in 2030

MULTIEMPLOYER PENSION PLAN CHANGES

- The PBGC will be providing special assistance to highly distressed plans that meet at least one of the following requirements:
 - Is in critical and declining status (is expected to run out of assets in 20 years or less)
 - Previously reduced benefits under the Multiemployer Pension Reform Act of 2014
 - Is in critical status with either (A) an assets to liability ratio of 40% or less or (B) an active participant to inactive participant ratio of at least 2:3
 - Became insolvent after December 16, 2014, but is not yet terminated

EXECUTIVE COMPENSATION

- Code Section 162(m) provides limits on when executive compensation to certain executives beginning in 2027
- The number of individuals subject to 162(m) will be increased to the CEO, CFO and the next 8 highest paid individuals
- Currently it is the CEO, CFO and next three highest paid individuals
- Only those currently CEO, CFO and next 3 highest paid individuals are always subject to 162(m) once it applies in any particular year
- The newly covered individuals are only subject to 162(m) in years when they actually are subject to 162(m), not every future year no matter what

EMPLOYEE RETENTION CREDIT

- This has been extended until December 31, 2021
- The previous end date was June 30, 2021
- There are changes to the credit mechanism starting July 1, 2021
- The other requirements and restrictions remain in place

QUESTIONS?

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THANK YOU

Legal Disclaimer: This document is not intended to give legal advice. It is comprised of general information. Employers facing specific issues should seek the assistance of an attorney.

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