



## 2021 ARPA COBRA Subsidy Program Compliance Alert and Action Plan

COBRA subsidy legislation was signed on March 11, 2021, with an April 1, 2021 effective date. In addition, the Department of Labor (DOL) issued new model notices that incorporate information about the subsidy, as well as FAQs about how the subsidy works on April 7, 2021. Thus far, HPI has issued a *Compliance Bulletin* on March 26, and an additional subsidy update on April 23. In the meantime, we have been hard at work behind the scenes to develop the processes and notifications to support our COBRA administration clients in meeting the requirements of the new law. This *Alert* is to provide you with an overview of HPI's implementation action plan for our COBRA administration clients.

Additional details about eligibility for the subsidy and links to subsidy resources are on page 2.

### Subsidy Recap

- Assistance Eligible Individuals (AEIs) are eligible for a 100% subsidy of COBRA premiums due for coverage periods falling between April 1, 2021 and September 30, 2021
- AEIs are defined as employees and covered dependents who lose health coverage due to the employee's:
  - Involuntary termination of employment, or
  - Reduction in hours

AEIs do not include those who are eligible for coverage under either another group health plan (such as a spouse's, parent's or new employer's plan) or Medicare

- AEIs must apply for the subsidy, verify that they and their covered dependents meet the eligibility criteria, and notify the Plan if they lose eligibility for the subsidy before it ends

The chart below outlines the steps involved in implementing the new COBRA subsidy rules for your employees and their covered dependents:

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Action Items	Target Dates
<p><b>1. HPI – notify COBRA-eligible employees and dependents using the new subsidy model notices and forms issued by the DOL on April 7, 2021</b></p>	<ul style="list-style-type: none"> <li>• 4/30 – Distribute Extended Election Period notices to those members eligible for COBRA at any point between April 1 and September 30, 2021 on the basis of termination of employment or reduction in hours, who have previously received COBRA Election Notices, along with the subsidy applications (<i>Request for Treatment as Assistance Eligible Individual(AEI)</i>) and the form to notify the Plan of other coverage (<i>Participant Notification of Eligibility for Other Group Health Plan Coverage or Medicare</i>) - the statutory deadline for providing Extended Election Period notifications is May 31, 2021.</li> <li>• Beginning week of 5/10 and continuing through 9/30– Distribute new Election Notices with the applicable subsidy forms (described above) to newly eligible individuals who have not previously received Election Notices - the statutory deadlines for providing new Election Notices follows the standard (pre-pandemic) COBRA notification timetable.</li> </ul>
<p><b>2. HPI and Clients – identify employees involuntarily terminated or whose hours were reduced</b></p>	<ul style="list-style-type: none"> <li>• Beginning 4/30 – HPI distributes listing to clients of those members with coverage periods that fall between April 1 and September 30, 2021, who have already received COBRA Election Notices in order for clients to identify AEIs.</li> <li>• Beginning 4/30 - HPI provides each client with specific instructions for identifying future AEIs among those newly eligible for COBRA, based on how each client’s COBRA program is now administered.</li> </ul>
<p><b>3. HPI – process premium subsidy adjustments as applications for the subsidy are received from employees</b></p>	<ul style="list-style-type: none"> <li>• As completed subsidy applications are received from COBRA-eligible individuals, HPI confirms eligibility against the information provided by each client under (2) above.</li> <li>• HPI processes premium refunds, adjusts premiums due going forward, and provides clients with reports of subsidies on an ongoing basis, as applicable.</li> <li>• HPI notifies each subsidy recipient that their subsidy will end 15-45 days before the subsidy terminates, as required by the subsidy statute.</li> </ul>

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## Notes on AEI Eligibility

Based on information provided to Plan Sponsors and COBRA Administrators during an April 26, 2021 DOL webinar, the terms below are further explained as follows:

### *Involuntary termination*

Involuntary termination includes employment termination initiated by employer action, such as layoffs and firing (except firing for gross misconduct). However, the DOL indicated that both the IRS and the DOL may review whether the definition might be more expansive. HPI understands that the DOL and IRS have received many questions about terminations initiated by employees who may have left work for COVID-specific reasons such as caring for a child whose day care or school closed, or being at high risk for contracting the virus. HPI will provide updates if and when additional guidance is issued.

### *Reduction in hours*

During the webinar, the DOL reiterated that a reduction in hours that qualifies an employee for the subsidy includes such voluntary actions as changing from full-time to part-time status or taking an approved leave of absence, provided these actions result in a loss of coverage under the Plan. See FAQ #3 issued by the DOL (link below).

## Additional Resources

- **DOL FAQ** addressing employer questions about claiming the subsidy; you may also want to consult with your tax advisor about claiming the payroll tax credit
  - <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>
- **HPI FAQ** regarding the COBRA subsidy, how it affects employers and how it affects COBRA-eligible individuals
  - [https://www.hpitpa.com/media/d53bdnz0/compliance-faq\\_cobra-subsidy-2021\\_clientemployer\\_flyer.pdf](https://www.hpitpa.com/media/d53bdnz0/compliance-faq_cobra-subsidy-2021_clientemployer_flyer.pdf)
- **HPI-issued subsidy-related Compliance communications**
  - <https://www.hpitpa.com/your-resources/for-employers/health-care-reform-compliance/>

As indicated in the chart under #2 above, HPI will be contacting you shortly with specific information about your organization's COBRA-eligible employees and detailed directions about how to notify HPI about their AEI status. In the meantime, if you have any questions, please feel free to reach out to your HPI Account Services Team.

*The information in this Compliance Alert is intended to provide a summary of our understanding of recent regulatory developments which may affect our clients' plans. It should not be construed as specific legal advice or legal opinion.*