



FAQs on UABT COBRA ARPA Issues
April 16, 2021

Q1: Does the federal COBRA ARPA premium subsidy requirement apply to Cal-COBRA that is offered after the 18 month federal COBRA coverage has been exceeded?

No. Based on the guidance available at this time, the ARPA premium subsidy rules do not apply to assistance eligible individuals (AEIs) who elect Cal-COBRA (i.e., coverage for 19-36 months) as extended coverage after the 18 month federal COBRA coverage has been exceeded. UABT as a COBRA administrator only offers Cal-COBRA as extended coverage (i.e., coverage for 19-36 months) after the 18 month federal COBRA coverage has been exceeded. The COBRA ARPA premium subsidy rules do not extend the 18 month federal COBRA coverage period. Accordingly, for employer groups who have their COBRA benefits administered by UABT, such employer groups will not be required to provide ARPA premium subsidies to employee members who elect extended Cal-COBRA (i.e., coverage for 19-36 months). UABT is still waiting for additional guidance that may clarify this issue.

Q2: Does the COBRA ARPA premium subsidy also apply to dental and vision benefits?

Yes, the COBRA ARPA premium subsidy also applies to dental and vision benefits.

Q3: Does the new 60-Day Second Election COBRA Notice apply to Cal-COBRA that is offered after the 18 month federal COBRA coverage has been exceeded?

No. The April 7, 2021 DOL FAQs clarify that there is *no* applicable extended election period (i.e., Second Chance at COBRA) for employees who elect Cal-COBRA (i.e., coverage for 19-36 months). This means that employer groups are *not required* to provide the new 60-Day Second Election COBRA Notice to individuals who have elected Cal-COBRA (i.e., coverage for 19-36 months) after exceeding the 18 month federal COBRA coverage period.

Q4: Will UABT provide the new 60-Day Second Election COBRA Notice for employers?

Yes, if the employer group has elected to have their COBRA benefits administered by UABT. UABT will provide the new 60-Second Election COBRA Notice for such employer groups who have their COBRA benefits administered by UABT.

Q5: Will UABT provide the new 60-Day Second Election COBRA Notice and invoicing for employer groups who outsource their COBRA administration to a third-party administrator (COBRA TPA)?

No. If an employer group has their COBRA benefits administered by a COBRA TPA (i.e., another entity other than UABT), then the COBRA TPA is responsible for providing the new 60-Second Election COBRA Notice to the assistance eligible individuals (AEIs) and invoicing the employer group for the COBRA premium subsidy. UABT will not be providing COBRA administrative services to employers who have retained a COBRA TPA to administer their COBRA benefits.

Q6: What kind of notice will UABT provide to assistance eligible individuals from October 1, 2019 through March 31, 2021?

UABT will provide the April 7, 2021 released DOL Model new 60-Day Second Election COBRA Notice for assistance eligible individuals (AEIs). Although this new DOL Model new 60-Day Second Election COBRA Notice was not released in Spanish, UABT will have such notice translated into Spanish. Note that this new 60-Day Second Election COBRA Notice for assistance eligible individuals (AEIs) must be provided by **May 31, 2021**.

Q7: Will UABT provide the new 60-Day Second Election COBRA Notice to other individuals who are eligible for COBRA due to other qualifying events such as voluntary termination, death, divorce, or legal separation of the covered employee and or dependent is age twenty-six (26) or above?

No. The new 60-Day Second Election COBRA Notice will only be provided to applicable assistance eligible individuals (AEIs). Individuals who qualified for COBRA due to voluntary termination, death, divorce, or legal separation of the covered employee and or dependent is age twenty-six (26) **will not** receive the new 60-Day Second Election COBRA Notice.

Q8: When must the assistance eligible individual (AEI) respond to the new 60-Day Second Election COBRA Notice?

The day the assistance eligible individual (AEI) **receives** this notice, he/she must decide whether or not to elect COBRA coverage and take advantage of the COBRA premium assistance. Accordingly, the new 60-day second election period (i.e., Second chance at COBRA) starts tolling the date the AEI **receives** this new notice. The 60-day period does not start from the date of the notice.

Q9: What kind of notice will UABT provide to an employee who experiences a qualifying event and is eligible for COBRA during the ARPA subsidy period ending September 30, 2021?

As soon as reasonably possible, UABT will provide employees who experience a qualifying event and are eligible for COBRA the following:

- a newly revised DOL Model General Notice which includes an election notice for assistance eligible individuals (AEIs) experiencing qualifying events from May 2021 through September 30, 2021,
- DOL Model summary of the COBRA premium assistance and
- DOL Model Request for Treatment as an Assistance Eligible Individual form.

This information will be provided to any employee who experiences a qualifying event and becomes eligible for COBRA. This includes employees who voluntarily terminate (i.e., quit). The employee will then have to complete the DOL Model Request for Treatment as an Assistance Eligible Individual form and attest that he/she qualifies as an assistance eligible individual (AEI).

Q10: If an employee was eligible for COBRA on or after October 1, 2019 but did *not* elect COBRA, can the employee still receive the COBRA ARPA subsidy?

Yes. The new 60-Day Second Election rule (i.e., Second Chance at COBRA) will apply to all assistance eligible individuals (i.e., fired, furloughed, or laid off) from employer groups who *did not* elect COBRA coverage before April 1, 2021 (presumably because it was too expensive) or previously elected COBRA but let it lapse. These AEIs will have a Second Chance to elect COBRA effective April 1, 2021 and take advantage of the 100% COBRA ARPA Subsidy.

Q11: Does an employer need to notify UABT regarding employee termination status?

Yes. Effective April 2021 through September 30, 2021, all employers will need to confirm to UABT whether an employee has been terminated due to involuntary termination or experienced a reduction in hours (i.e., furlough, or lay off). UABT needs confirmation of the employee termination status from the employer to determine if such employee qualifies as an assistance eligible individual (AEI).

Q12: What about employer group notification obligations for October 1, 2019 through March 31, 2021?

Employer groups will need to review their employment records from October 1, 2019 through March 31, 2021. UABT will be contacting employer groups to obtain verification of employee termination status from October 1, 2019 through March 31, 2021. UABT needs this information to send the mandatory new 60-Day Second Election COBRA Notice to all applicable assistance eligible individuals (AEIs). This notice must be provided by *May 31, 2021*.

Q13: Does this employer notification regarding employee termination status apply to current active COBRA members for April 2021?

Yes, up until the end of September 30, 2021.

Q14: How will UABT invoice the employer for the owed COBRA ARPA subsidy contributions?

UABT will include a separate invoice for any applicable owed COBRA ARPA subsidy contributions attached to our monthly invoice.

Q15: Will the COBRA ARPA subsidy invoice be for the entire six-month period on a single invoice, or will the employer be invoiced each month from April 1, 2021 through September 30, 2021?

The UABT COBRA subsidy invoice will be done every month for the applicable period.

Q16: Does the UABT April invoice include owed COBRA ARPA subsidy contributions?

No. After UABT receives employer confirmation of the termination status of the active COBRA member, the May 2021 invoice will include any applicable owed COBRA ARPA subsidy contributions owed for both April and May 2021.

Q17: What are the employer groups' responsibilities regarding former employees terminated between October 1, 2019 and March 31, 2021?

The employer needs to go back and look at their employment records to start creating a list of all employees that were involuntarily terminated, furloughed, or laid off from October 1, 2019 through March 31, 2021. UABT will be contacting the employer groups for such confirmation. Once these assistance eligible individuals (AEIs) start receiving the new DOL 60-Day Second Election Notice and if such AEIs choose to elect COBRA, UABT will invoice the employer group for the owed COBRA ARPA contributions for the applicable subsidy period. The employer will need to reconcile on their end the COBRA invoice for the owed contributions with their employment records to confirm these individuals qualify as AEIs.

Q18: At the end of the COBRA ARPA 6-month period, will UABT provide administrative assistance with Form 941 by giving information on total COBRA ARPA subsidies contributed to UABT?

No. The employer HR department is responsible for keeping track of the total amount of COBRA ARPA subsidies contributed to the UABT.

Q19: How will UABT administer COBRA benefits for new employers with an effective date between April 1, 2021 and September 1, 2021?

This answer will depend on whether the employee elected COBRA *prior* to the new employer joining UABT.

Non-Active COBRA members as of UABT Effective Participation Date

UABT *will not* be providing COBRA administration for an employer's *non-active* COBRA members as of an employer's UABT effective date. This means that if the former employee *was not an active* COBRA member as of the effective date when the employer joined UABT, then the *prior COBRA benefits administrator or employer* (whoever administered COBRA) would be responsible for providing the notice and invoicing for COBRA ARPA subsidies.

Active COBRA members as of UABT Effective Participation Date

UABT will provide COBRA administration for an employer's *active* COBRA members as of the effective UABT date. This includes providing the new 60-Day Second Election Notice and COBRA subsidy invoicing.

Q20: Are there employer penalties for non-compliance with the COBRA ARPA subsidy rules?

Yes. Employers are subject to penalties for any ARPA subsidy-related failures such as failure to provide the COBRA ARPA subsidy or failure to provide the required notices. The penalty is up to \$100 per member (up to a family maximum of \$200) for each violation that continues.

Q21: Are there employee penalties for misrepresenting their eligibility for the COBRA ARPA premium subsidy assistance?

Yes. Any assistance eligible individual (AEI) who is receiving employer provided COBRA premium coverage must notify UABT of their eligibility for another group health plan or Medicare. Individuals who fail to do so will be subject to a \$250 penalty. If the failure is fraudulent, the individual will be subject to the greater of \$250 or 110% of the premium assistance provided after termination of eligibility.