



New COBRA Rules under the American Rescue Plan Act of 2021 (ARPA) Q&A Summary

1. Who sends the notice to Bob (in the example)? The employer or TPA?

In our example, Bob worked for ABC Farms, a UABT group. If the employer chose to have their COBRA benefits administered by UABT, then UABT would be the plan administrator responsible for sending out this notice to Bob. If an employer outsources their COBRA administration to a third party, then that third party would be responsible for providing this notice to Bob.

2. Who notifies Ann (in the example) of the special election period?

Ann is a former employee of ABC Farm, a UABT group. UABT is responsible for administering COBRA benefits on behalf of ABC Farm. In this case, UABT would be responsible for providing this notice to Ann.

3. Will UABT bill employers monthly? Or at what frequency?

This is to be determined as we are still developing our policies and procedures. We will keep you updated as soon as we receive more detailed information.

4. UABT will provide the termination letter of COBRA, but employers need to provide letter of eligibility for employer to pay for COBRA?

If UABT is responsible for administering the employer's COBRA benefits, then yes, UABT will be providing the DOL required notices.

5. So UnitedAg will send out these notices, not the employer?

If UABT is responsible for administering the employer's COBRA benefits, then yes, UABT will be providing the DOL required notices. However, if the employer has opted to have a third party administer their COBRA benefits, then that third party will be responsible for sending out the notices.

6. So, if an employee was laid off, we must cover the cost of COBRA?

If an employee was laid off or experienced a reduction in hours, that employee qualifies as an assistance eligible individual (AEI). That employee will receive the notice within the next month informing them of their right to elect COBRA and qualify for the 6-month premium subsidy. If this employee elects COBRA then yes, the employer must advance the cost of the COBRA premium for the applicable period. *The employer is eligible to receive a refund of this COBRA premium subsidy as a payroll tax credit on the form 941.*

7. Will UABT be auditing terms with employers to verify actual eligible AEI's?

We are still developing our policies and procedures since this is a new rule. Employers are encouraged to go through their employment records and identify the employees who have been laid off, furloughed, and involuntarily terminated. UABT does not have access to this information.

8. What about seasonal employees who are always laid off for a period of time?

Adopting a "best practice" approach, you should keep track of all the seasonal employees laid off on an ongoing basis. We will know more information once the DOL publishes additional guidance, which should provide more details.

9. Does this law apply to Cal-COBRA groups?

Since the law is so new, we are waiting for additional guidance provided by the HHS, DOL and the IRS that will indicate how it should be coordinated. If Cal-COBRA is going to follow suit with these rules, it will be California legislation that will qualify that.

10. You just stated the employers can apply these premiums as a tax credit on the 941, however, your slides state credit is refundable if the credit exceeds the amount of payroll taxes due. What if it does not?

This is a topic you should discuss with your CPA or tax preparer. The IRS has been directed to publish more guidance regarding instructions on filing form 941 and how to apply for these refundable credits.

11. Will UnitedAg be providing the employee with this new COBRA option or is there a time frame in which we need to advise the employee to enroll in COBRA once they know if our company will be paying the premiums on their behalf?

As I stated in my presentation, the DOL is required to release the new Model 60-Second Election Notice within 30 days of March 11, 2021 (dated ARPA enacted). This date is on or about April 12, 2021. Hopefully, the new DOL Model 60-Second Election Notice and its instructions will provide additional information regarding who should receive this new notice. As you may recall, this DOL Model 60-Second Election Notice must be provided to all applicable former employees by May 31, 2021.

12. Would dental/vision be eligible for the COBRA subsidy, as well as medical? Or is this only medical? Going one step further, does it matter if the dental/vision is voluntary, or employer sponsored?

Since this is a new law passed less than a month ago, it is unclear if the COBRA ARPA subsidy will apply to dental/vision benefits in addition to medical. Hopefully, when additional guidance is published by the DOL and IRS, it will provide more clarity on this topic.