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April 5, 2021

Employer Group
Address
City, CA Zip Code

RE: New COBRA Subsidy Rules under the American Rescue Plan Act of 2021

Dear Employer Group,

Superior Insurance Services, Inc. (Superior) is providing you with a broad overview of the new COBRA subsidy rules under the American Rescue Plan Act of 2021 (ARPA). Please understand that we are waiting for additional guidance from the Department of Labor (DOL) regarding these new COBRA ARPA rules. These new COBRA rules will affect your company from April 1, 2021 through September 30, 2021. As explained below, Superior will invoice you for COBRA contributions for any eligible employee who has been involuntarily terminated or experienced a reduction in hours and elected COBRA, starting April 1, 2021 as required under ARPA.

As you know, COBRA provides temporary continued health care coverage to certain eligible employees and their spouses and children (i.e., dependents) for a period of eighteen (18) months at their own expense. COBRA coverage is triggered when an eligible employee experiences a qualifying event such as a termination, layoff, divorce or legal separation from the eligible employee, or a dependent child is no longer eligible as a dependent under the healthcare plan.

Assistance Eligible Employees Who Can Receive the 100% COBRA Subsidy

The 100% COBRA subsidy is only available to former employees, their spouses and children who meet specific COBRA requirements. An assistance eligible individual is:

- any employee who was fired, laid off or furloughed,
- an employee who is not eligible for other group health coverage or Medicare and
- current active COBRA member who was fired, laid off or furloughed.

Employers should note that this 100% COBRA subsidy does not cover employees and their dependents when the employee voluntarily quit or retired. Individuals who become eligible for other group health care coverage or Medicare are required to notify their group health plan.

New 100% COBRA Subsidy Requirement from April 1, 2021-September 30, 2021

ARPA now requires all employers to pay upfront a temporary 100% COBRA subsidy from April 1, 2021 through September 30, 2021 (Subsidy Period) for an assistance eligible individual who has been terminated or laid off. Please note that employers are obligated to provide temporary 100% COBRA contribution payments for *a 6-month period from April 1, 2021 through September 30, 2021 only* on behalf of a former assistance eligible employee who has been terminated or laid off. This means that employers must initially pay 100% of the COBRA contributions for the assistance eligible employee (i.e., terminated or laid off) that elects COBRA through Superior from April 2021 – September 30, 2021. **Employers will be eligible for a 100% refund** as a payroll tax credit for this COBRA subsidy against quarterly Medicare hospital insurance (HI) taxes on Form 941. Form 941 is an Employer's Quarterly Federal Tax Return filed with the IRS.

New 60 Day COBRA Second Election Period Effective November 1, 2019

ARPA also includes a new special second opportunity to elect to COBRA for the following:

- Eligible individuals who do not have COBRA coverage on April 1, 2021,
- Employees who were terminated, laid off or furloughed and did not have COBRA coverage on April 1, 2021, and
- Prior employees who previously elected COBRA coverage but let COBRA lapse or never had COBRA coverage.

The special second election period begins on April 1, 2021 and ends 60 days after notice of the election right (i.e., New COBRA Notice) is provided by Superior. Please note that this new special second election period reaches back to COBRA qualifying events that occurred *on or after November 1, 2019*. Upon receiving the New COBRA Notice (which will be sent by Superior), this group will now have 60 days to have a second chance to choose COBRA coverage beginning on or after April 1, 2021 on an ongoing basis. The main purpose of these rules is to give the former employees a second chance to elect COBRA so that they may take advantage of the 6-month 100% COBRA subsidy from April 1, 2021-September 1, 2021.

Duration of COBRA Coverage for New 60 Day COBRA Second Election Period

The second election period does not extend the 18-month COBRA coverage period. This means that for former employees after November 1, 2019 who first elected COBRA but then let it lapse, coverage for these eligible employees *would not extend* beyond their original 18-month COBRA coverage. There is a possibility that these former employees would only be eligible to receive a few months of the 100% COBRA subsidy.

Example:

- Bob from ABC Farm was fired on January 31, 2020.
- He qualifies as an assistance eligible employee for the COBRA subsidy since he was terminated.
- He elected COBRA for February 1, 2020 but let it lapse in July 2020 (6 months) since it was too expensive.
- He elects COBRA coverage again in April 2021 under the new 60-day second election period.
- ABC Farm must make COBRA contributions to their health and welfare plan for Bob for 4 months from April 2021 – July 2021.
- July 2021 is the last month of Bob's original 18-month COBRA coverage.

New COBRA Notice Requirements

To comply with all these new COBRA ARPA changes, employers are required to provide a New COBRA Notice to all eligible individuals by **May 31, 2021**. Superior will provide this New COBRA Notice to former employees on behalf of our employers. This New COBRA Notice must inform the eligible employees of; 1) the availability of the new 100% COBRA subsidy and 2) their right to elect coverage (i.e., second chance to enroll in COBRA) beginning April 1, 2021 within 60 days of receiving such notice. The DOL will provide a new model notice by end of April 2021 to explain all these changes. Once this DOL model notice has been published, Superior will provide the New COBRA Notice as a *supplemental notice* included in the Superior COBRA enrollment packet to all eligible former employees in both English and Spanish.

New Superior Invoices for COBRA Subsidy

Starting in April 2021, employers should expect to see an invoice from Superior for the 100% COBRA subsidy for assistance eligible employees as mandated by ARPA.

As soon as additional DOL guidance is published, Superior will be able to provide you with more details regarding the administration of COBRA benefits under the new ARPA rules.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Yvonne Park". The signature is fluid and cursive, with a large initial "Y" and a long, sweeping tail.

Yvonne Park, Esq.
Associate General Counsel