

CLIENT ALERT: EMPLOYERS MUST OFFER “FREE” COBRA COVERAGE

By William Duff

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The American Rescue Plan Act of 2021 requires employers with group health plans to extend offers of free COBRA continuation coverage (“Free COBRA Coverage”) to certain qualified beneficiaries (i.e., covered employees, their spouses and dependents) for the period from April 1, 2021 through September 30, 2021.

Who is Eligible?

Free COBRA Coverage must be offered to qualified beneficiaries whose loss of group health plan coverage is due to reduction in hours or an involuntary termination of employment, who are enrolled (or have a right to enroll) for COBRA coverage on and after April 1, 2021, regardless of the date of the loss of group health plan coverage.

Free COBRA Coverage will also be available to those who utilized COBRA coverage prior to April 1, 2021, but whose COBRA coverage had been discontinued before April 1, 2021 (regardless of the reason for the initial loss of group health plan coverage). These qualified beneficiaries can re-start their COBRA coverage on a going forward basis without cost until the earliest of the expiration of their aggregate period of coverage (usually 18 months – including the period of coverage prior to April 1), eligibility for other group health coverage, or September 30, 2021.

In general, Free COBRA Coverage is not available for loss of group health plan coverage due to voluntary employment terminations or for terminations due to “gross misconduct”.

How Long Will Free Coverage Last?

The free coverage will end on the earliest of (i) the date the individual becomes eligible for other group health plan coverage (or Medicare), (ii) the date COBRA coverage would normally expire (usually after 18 months of coverage), or (iii) on September 30, 2021.

Requirement to Give Notice

Group health plan administrators must give notice of eligibility for Free COBRA Coverage by May 30, 2021. The US Department of Labor is expected to issue a model form of notice for this purpose. Additional notices are required to be given to those who are eligible but fail to elect the free coverage, prior to the time the period of free coverage would end.

Cost and Tax Credits

There is some confusion concerning the persons responsible for the payment of the premiums for the “free” coverage. It appears that sponsors of self-insured plans will be responsible for the payment of premiums, and will receive a tax credit for the amount paid; and that premiums for fully insured plans will be covered by the insurer, who will likewise receive a tax credit for the premiums paid. However, we expect the regulations to clarify responsibility for, and tax credits allowed for subsidizing the premiums.



We Can Help!

[Contact us](#) if we can be of assistance in identifying eligible participants, preparing notices, and responding to any questions you may have concerning your obligations under the new law.

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