



COMPLIANCE BULLETIN

On March 11, 2021, President Biden signed the [American Rescue Plan Act of 2021 \(Act\)](#). The Act is a \$1.9 trillion legislative package that includes pandemic relief for individuals and families. The Act contains several provisions including funding to the Centers for Disease Control and Prevention, stimulus checks, unemployment benefits, the child tax credit, tax credits for paid sick leave and family and medical leave, the Paycheck Protection Program, grants to state educational agencies, and low-income family assistance. The Act also contains several provisions affecting group health plans.

Below is a high-level overview based on Innovative Benefit Planning's review of the Act but more detailed information on the COBRA relief can be found in a link following the COBRA explanation.

COBRA Continuation Coverage Subsidies

The Act provides COBRA relief for assistance-eligible individuals. An assistance-eligible individual is an individual who is eligible for COBRA due to a COBRA qualifying event of termination of employment or reduction in hours, except for an individual's voluntary termination of employment, and if he or she elects coverage during the period beginning April 1, 2021 and ending on September 30, 2021. During this time period, COBRA premiums will be considered paid and if individuals pay any portion of COBRA premiums, the amount must be reimbursed within 60 days of the date on which the individual made a premium payment. There will be interplay between the extension of COBRA deadlines under the tolling guidance from the DOL and qualified beneficiaries eligibility for premium subsidies.

COBRA Premium Assistance Credit

The employer maintaining the plan is entitled to a premium assistance credit against the FICA Medicare tax imposed on it. The amount of the premium assistance credit for each calendar quarter is equal to the amount of premiums not paid by assistance-eligible individuals.

Permitted Alternative (Different) COBRA Coverage

An employer is permitted (but not required) to offer the COBRA qualified individual different coverage that is not the same plan as the plan the individual was covered under at the time the COBRA qualifying event occurs. The premium for this different coverage may not exceed the premium for coverage the individual was enrolled at the time the qualifying event occurred.

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COBRA Notices to Individuals

Employers must amend their COBRA elections notices or include a separate document to notify the recipient in clear language of the availability of premium assistance and the option to enroll in different coverage if the employers permit an alternative election. Employers must provide this notice within 60 days after April 1, 2021. The DOL, HHS and the Department of Treasury will issue models for the additional notification described above no later than May 31, 2021.

Download the full Advisor for details on COBRA relief [here](#).

Dependent Care Assistance Programs

Employers may (but are not mandated to) allow employees to increase their Section 125 cafeteria plan deductions to \$10,500 if they participate in a dependent care assistance program in 2021. Employers must adopt this provision through a modification to their Section 125 plan document to allow employees to increase their elected funds for their dependent care FSA plan.

Expansion of Health Premium Tax Credits Available Through Health Insurance Exchange Marketplaces

Typically, family incomes that exceed 400% of the federal poverty level do not qualify for a subsidy through the individual market exchange. The American Rescue Plan Act expands the current eligibility requirements for individual market premium tax credits for people who buy coverage through the health insurance exchange marketplace. For 2021 and 2022 this expanded eligibility provides premium tax credits to people buying coverage regardless of income. For 2021 and 2022, no enrollee will pay no more than 8.5% of their income for individual market exchange-based premiums. Individuals who are currently covered by an exchange-based health plan will be able to start claiming any extra subsidy immediately, or they can wait and claim it on their 2021 tax return.

Extension of FFCRA Family and Sick Leave Provisions and Tax Credits

The credits for paid sick and family leave created by the Families First Coronavirus Response Act (FFCRA) are extended to September 30, 2021. For those employers who continue to voluntarily provide paid leave under that law. Additionally, beginning April 1, 2021 the new law resets the two-week leave limit. It further expands the sick leave eligibility criteria to include days off related to a COVID-19 vaccination.

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Business-Based Economic Relief That Affects Health Insurance Coverage

The new law extends the employee retention tax credit, which began with the enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, through December 31, 2021. Using this credit, eligible employers may claim a payroll tax credit for paying qualified wages and offering health insurance coverage to employees. The maximum credit amount is \$7,000 per quarter for each employee, and businesses can use it to pay for both salary and health insurance benefit costs.

Next Steps

- For our clients, Innovative will provide the new COBRA notices based on the models provided by the DOL. (DOL is expected to release before 5/31/21)
- Employers should determine whether they will allow a qualified beneficiary to change their plan enrollment. If so, Innovative can review and assist in amending client plan documents to permit these changes. If an employer is self-insured, Innovative will review these changes with your stop loss carrier before amending any plan documents.
- For our clients, Innovative will work with COBRA plan administrators to confirm how they intend to administer the new COBRA subsidy and how this may coincide with the COBRA deadline extensions.
- Employers should decide whether to increase the contribution limit for the 2021 dependent care plan.

If you have any questions please contact your Innovative Benefit Planning Account Manager or email us at icomply@ibpllc.com.

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