

EMPLOYEE BENEFIT ALERT



JULY 30, 2021

COBRA SUBSIDY EXPIRATION NOTICE

It is already time to think about the distribution of the expiration notice for the COBRA subsidy as required by the American Rescue Plan Act (ARP). This notice has also been referred to as a termination notice.

When

This expiration notice must be sent to 15-45 days before the expiration of the subsidy or the expiration of an Assistance Eligible Individual's (AEI's) maximum coverage period. This means that for some AEIs, the expiration notice should have already been sent 15-45 days before their COBRA coverage ran out and subsidy thereby ended.

The COBRA subsidy itself is set to expire on September 30, 2021 (or more specifically, the date on which the last period of coverage beginning on or before September 30, 2021 ends), meaning the expiration notice must be sent between August 16 and September 15, 2021 (give or take the number of days that the last period of coverage beginning on or before September 30, 2021 lasts). As important as it is to send out the notice before September 15, it is also very important and best practice to send out the notice after August 16.

To Whom

Anyone receiving premium assistance through the COBRA subsidy must be sent an expiration notice, regardless of whether they have reached their maximum coverage period under COBRA.

Distribution of the expiration notice is not necessary for AEIs whose subsidy ended due to the AEI's eligibility for other group coverage or Medicare. However, practically speaking,

it would be difficult for employers to know when that is the case, so it is best practice to send out the expiration notice to any COBRA subsidy recipient.

What

The Department of Labor has provided a Model Notice of Expiration of Premium Assistance. Though use of the model is not required, appropriate use of the Model Notice is considered good faith compliance with ARP requirements. To appropriately use the model notice, there are a few blanks that will need to be filled with the plan's information, including:

- Date of the notice
- Names or status of the qualified beneficiary(ies) that the notice applies to
- Name of the group health plan or insurance policy
- Whether the Assistance Eligible Individual (AEI) is receiving the notice due to the end of their maximum period of continuation coverage, or due to the end of the COBRA subsidy
- Date on which the AEI's maximum period of continuation coverage will end, or the date of the end of the COBRA subsidy
 - » Depending on a plan's premium payment cycle, this date may be later than September 30, 2021 because the subsidy continues until the end of the last period of coverage beginning on or before September 30, 2021
- Monthly premium cost that the AEI will have to pay in order to maintain continuation coverage after the end of the COBRA subsidy

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In the event that the Model Notice is not used, the above listed information must still be included in the notice. The notice must display in “clear and understandable language” the date upon which the subsidy will expire. Additionally, the notice should also contain detailed information on other coverage options moving forward, including the option to continue COBRA coverage without the subsidy for the remainder of the AEI’s maximum coverage period (if applicable).

The model expiration notice can be found here – <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/notice-of-premium-assistance-expiration-premium.pdf>

General information about the COBRA subsidy, including requirements for the expiration notice can be found here – <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy-for-employers-and-advisers>

Disclaimer

This article is provided for informational purposes only and is not intended to provide legal or actuarial advice. The issues and analyses presented in this article should be reviewed with outside counsel before serving as the basis of any legal or other decision.