

**AMERICAN RESCUE PLAN ACT CONTAINS
PROVISIONS FOR 100% COBRA SUBSIDY**

On March 11, 2021, President Biden signed the American Rescue Plan Act (“ARPA”). As part of ARPA’s provisions helping workers who have been negatively affected by the COVID-19 pandemic, it contains provisions allowing for a 100% subsidy of COBRA payments, when the qualifying event was an involuntary termination of employment or a reduction in hours. In short, it will provide free COBRA for participants for up to six months. These provisions effect the rights of employees eligible for COBRA beginning as of this sections’ effective date, April 1, 2021.

For the period from April 1, 2021, through September 30, 2021, an employee who is eligible to elect COBRA due to an involuntary termination of employment or reduction in hours will have his or her COBRA premium paid at 100%. For multiemployer plans, the cost of these COBRA premiums will be paid initially by the Plan, however the Plan may file for a refund of any amounts paid by the IRS. In the past, Funds have been able to receive similar refunds by filing a form 941 with the IRS, and the legislation directs the IRS to develop a similar form to refund any COBRA costs borne by Plans.

In addition, the ARPA provides that any employee who had an involuntary termination of employment or reduction in hours in the last 18 months and waived the offer of COBRA coverage or dropped COBRA must be allowed an additional chance to enroll in COBRA, with these new provisions. Employees who waived or dropped COBRA in the past 18 months must be given an additional 60 days to re-enroll.

The ARPA also provides that Plans must provide notice to all eligible individuals of their rights to have the COBRA costs covered at 100%. In the case of employees who waived or dropped COBRA, they must be provided notice of their right to re-enroll within 60 days of the effective date of the COBRA provisions (April 1, 2021).

Action Items for Welfare Funds:

- 1) Effective April 1 through September 30, 2021, if an employee is eligible for COBRA due to an involuntary termination from employment or a reduction in hours, then he or she must be advised that the COBRA premium will be paid at 100%.
- 2) No later than May 31, 2021, all employees who:
 - a) were eligible for COBRA on or after October 1, 2019,
 - b) waived or dropped COBRA coverage during that time, **and**
 - c) were eligible for COBRA due to an involuntary termination or reduction in hoursmust be provided an additional chance to enroll in COBRA coverage, which will be paid at 100% through September 31, 2021.

The legislation requires the IRS and DOL to prepare model COBRA notices which may be mailed to participants, as well as to create a process to allow multiemployer funds to receive a refund of any COBRA premium costs paid by the Plan. When these notices become available, we will be sure to inform you. If you have any questions about this provision, or any other matter, please do not hesitate to ask.

ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Boulevard, Suite 720
Chicago, IL 60606 - 312.263.1500

© 2021 Asher, Gittler & D'Alba, Ltd.
All rights reserved.
Dated: March 15, 2021

This release informs you of items of interest in the field of labor relations. It is not intended to be used as legal advice or opinion.

U.S. News & Report's Best Law Firms Designation is for Chicago Tier 1 rankings in Employment Law (Individuals), Labor Law (Union), and Litigation (Labor and Employment) and a National Tier 2 ranking in Litigation (Labor and Employment).

