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Health Benefits

Circular Letter

April 22, 2021

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Distribution: IV, V, VI, X, XII, XVI

To: All CalPERS Health Benefits Officers and Assistant Health Benefits Officers
Subject: Employer Responsibilities Regarding Temporary COBRA Premium Assistance from the American Rescue Plan (ARP) Act of 2021

Purpose

The purpose of this Circular Letter is to inform all health benefits officers (HBOs) and assistant HBOs of the temporary premium assistance available to eligible COBRA enrollees under ARP.¹

Introduction

President Biden signed ARP into law on March 11, 2021, providing temporary COBRA continuation coverage premium assistance to Assistance Eligible Individuals (AEI(s)). This law subsidizes 100% of AEI premium costs beginning April 1, 2021 through September 30, 2021. During this period, an AEI is not required to pay the COBRA premium. Instead, the employer is responsible to pay an AEI's premiums and is entitled to a tax credit for the amount of the COBRA premium assistance.

¹ CalPERS continues to assess laws and regulations related to the ARP Act, which may affect employers that participate in the CalPERS Health Program. While we make every effort to assist employers, this Circular Letter is solely informational, current as of the date shown above, and general in nature. This Circular Letter should not be acted upon without specific legal advice. CalPERS encourages each employer to thoroughly review this Circular Letter, federal regulations, and corresponding guidance discussed within with its own legal counsel to understand how it might specifically apply to them.

Eligibility

ARP defines an AEI as a qualified beneficiary who, during the period from April 1, 2021 through September 30, 2021, is eligible for COBRA coverage by reason of a qualifying event:

- Reduction in hours, which causes an individual to lose employer health plan eligibility **or**
- An involuntary termination of employment other than for gross misconduct (not including a voluntary termination); **and**
- Elects COBRA continuation coverage
 - This includes a qualified beneficiary who elected COBRA but has discontinued it (and would otherwise be eligible during the Assistance Period).

AEIs' eligible dependents who have lost health coverage for the reasons indicated above are also eligible for temporary premium assistance under ARP.

If AEIs were eligible for COBRA prior to April 1, 2021 but didn't enroll, they have the option to enroll effective April 1, 2021. Individuals electing COBRA during the extended election period may maintain coverage only until the expiration of the COBRA coverage period (which is most often 18 months) they would have had if they had elected COBRA when first eligible.

AEIs who previously elected COBRA coverage and then stopped paying premiums and were terminated from coverage may be eligible to elect fully subsidized COBRA coverage beginning April 1, 2021 if they are still within the maximum COBRA period (i.e., 18 months from their qualifying event).

Employer Responsibilities

Employers must communicate the availability of premium assistance to AEIs. Also, if an employer would like offer AEIs the option to enroll in different coverage, this must be included in the initial notice.

- Employers must provide a first notice to eligible individuals during the Assistance Period by May 31, 2021. This notice should address the individual's right to premium assistance. This notice must be provided to the following individuals:
 - Those already enrolled in COBRA between April 1, 2021 and September 30, 2021; and
 - Qualified beneficiaries who did not previously elect COBRA, as they must be given a second opportunity to enroll
- Employers must provide a second notice that addresses the expiration of premium assistance coverage. This notice must be provided to all those who received the first notice no earlier than 45 days before expiration but no later than 15 days before their premium assistance expires.

Employers are responsible for reviewing employees' employment histories to determine if they are eligible for temporary premium assistance. Further, employers are also responsible for paying AEIs' COBRA premiums for AEIs enrolled in health plans subject to federal COBRA requirements through the Public Health Service Act. CalPERS health plans fall under this category. Employers may recoup these payments through a payroll tax credit when filing quarterly FICA tax returns.

Resources to Assist You

For additional information and resources to assist you, FAQs and Model Notices for Employers are provided on the [COBRA Premium Subsidy](#) page of the U.S. Department of Labor's website. Additionally, [IRS Notice 2021-24 \(PDF\)](#) provides guidance to employers on how to apply for COBRA credits.

Alternatives to COBRA

As included in the Model Notices, some individuals may also be eligible to enroll in a federally subsidized health plan through Covered California or other states' plans under the federal Patient Protection and Affordable Care Act. These plans usually provide subsidized coverage for longer periods and are based on eligibility that may not require any out-of-pocket costs. However, regardless if individuals are enrolled in a non-COBRA plan, employers are still required to send out the notices to all eligible individuals as outlined above.

Questions

We are committed to assisting you conduct business with the CalPERS Health Benefits Program. If you have questions, visit www.calpers.ca.gov or call the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

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