

LEGISLATIVE UPDATE - AMERICAN RESCUE PLAN ACT 2021:
Requirements and Considerations for COBRA and FFCRA



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AGENDA

- COBRA subsidies
- What's new with FFCRA
- How HR Works can help



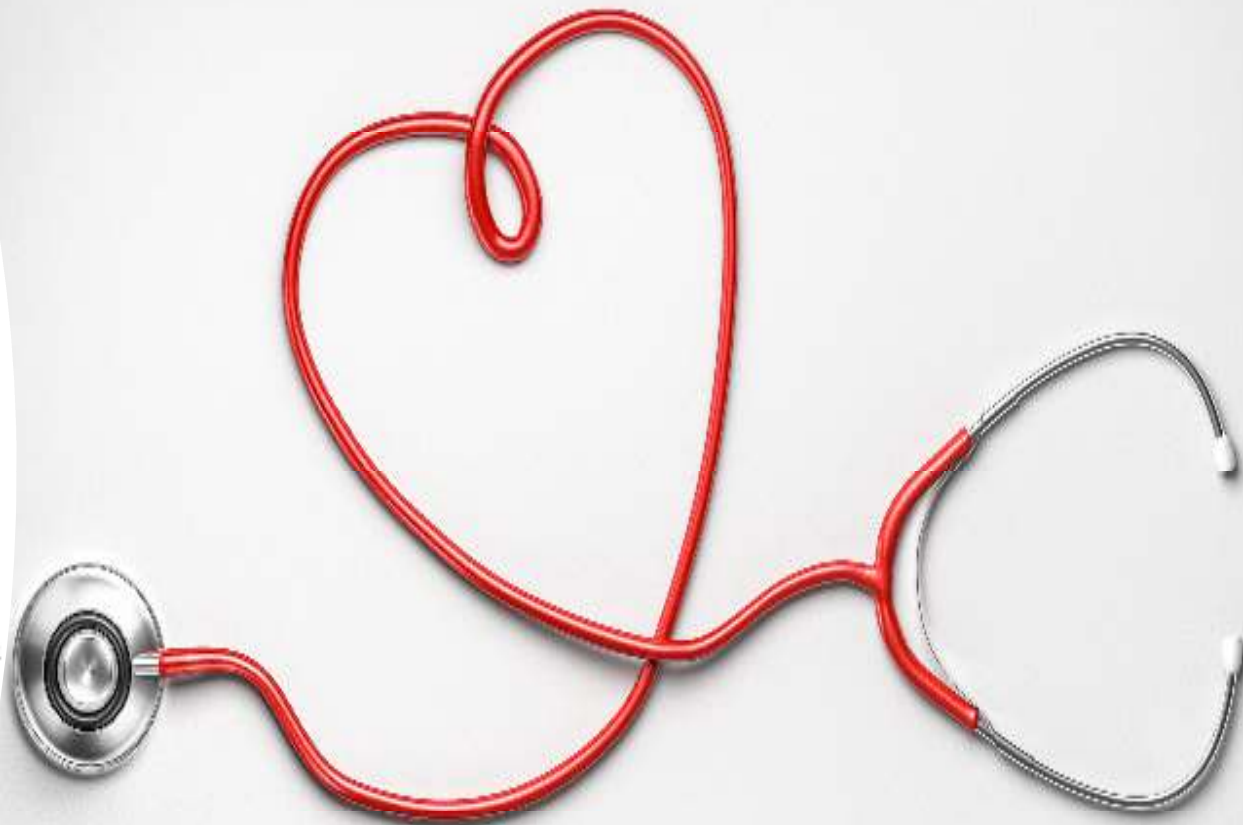
DISCLAIMER

The information provided today is in accordance with current legislation and guidance and is subject to change.

All material contained in the following presentation is for educational purposes only and is not intended to be final rule or legal advice.



COBRA SUBSIDIES



COBRA SUBSIDIES 4.1.21

The American Rescue Plan Act – ARPA

- Act signed March 11, 2021
- Allows for Federal COBRA premium subsidy effective April 1, 2021
 - Allows Assistance Eligible Individuals (AEIs) to receive 100% premium subsidy from April 1, 2021 - September 30, 2021 (Premium Assistance Period)
 - Payroll Tax credit to employer
 - Employer will cover premium equivalent for self-insured plans
 - Employer will pay premium to carrier for insured Plans



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Who is an AEI

- A Qualifying Beneficiary (QB) with Federal or State COBRA rights due to involuntary termination (other than gross misconduct) or reduction of hours, for any reason, including:
 - Current employees losing coverage after April 1 - September 30
 - Current enrollees entitled to continue benefits between April 1 and September 30
 - QBs that would otherwise be eligible for COBRA between April 1 and September 1, but waived or ended coverage prior to April 1



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Who is not an AEI

- A QB losing active coverage due to:
 - Voluntary termination
 - Divorce
 - Loss of Dependent Status
 - Death



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“Second Bite at the Apple”

- AEs that were enrolled previously and then dropped coverage prior to April 1
- AEs that waived coverage (i.e. never enrolled)
- New election period as of April 1
 - 60 days from notice to enroll
 - Benefits retroactive to April 1 and may last until end of the original coverage period or September 30, 2021, if earlier
- AEI may have two independent election periods



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“Second Bite at the Apple”

- Example:
 - Employee loses coverage in April 2020 due to involuntary termination
 - Traditional COBRA election period
 - 5.1.20 - 6.29.20
 - Delayed COBRA election period (due to COVID-19)
 - 6.30.20 - 6.29.21
 - Second election opportunity between 4.1.21 – 9.30.21
 - 60-day election period from date of notice
 - 4.15.21-6.14.21*



*if notice sent April 15, 2021

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Premium Assistance Continuation

AEI subsidy eligibility end dates

- The date the AEI becomes eligible for Medicare or other group health coverage
- The date the AEI's original coverage period would end

AEI Responsibilities

- Required to notify plan administrator when other coverage is available
 - Failure to notify will result in penalties (greater of \$250 each day or 110% of premium)



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Immediate ER/plan administrator action required:

- Identify individuals that were involuntary terminated or whose hours were reduced that are:
 - Currently enrolled in COBRA
 - Were enrolled in COBRA but ended coverage prior to April 1, and would otherwise still be within COBRA coverage period
 - Waived initial continuation opportunity but would otherwise be within COBRA coverage period (if elected when offered)



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Immediate ER/plan administrator action required:

- Determine whether plan change is allowed
- Ensure current processes are modified to accommodate premium subsidy (i.e. suspend automatic cancellation, etc.)
- Keep track of all premiums paid, to claim tax credits



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Employer/Plan Administrator Notice Requirements

- Continuation of Coverage
 - AEI becoming eligible for COBRA during Premium Assistance Period must be notified of premium assistance availability and option to change to lower priced plan (if applicable)
 - AEI who waived or ended coverage must be notified of the new election period and premium assistance availability
 - Notice must be provided no later than May 31, 2021



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Employer/Plan Administrator Notice Requirements

- End of Subsidy Notice
 - Provide AEI notice of expiration of coverage due to obtaining other group coverage or Medicare
 - AEI must be notified at least 15 days (no sooner than 45 days) in advance of subsidy expiration, and the date premium assistance will end
 - If applicable, notice must state that COBRA or other group health plan coverage may be available without premium assistance



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Employer/Plan Administrator Notice Requirements

- Model Notices have been published by DOL
 - Model ARPA General and COBRA Continuation Coverage Election notice
 - Model Alternative Notice of ARPA Continuation of Coverage Election Notice
 - Summary of Provisions/Request for Treatment of AEI
 - Model COBRA Continuation of Coverage Notice in Connection with Extended Election Periods
 - Notice of Expiration of Period of Premium Assistance



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Employer/Plan Administrator Notice Requirements

- Employers may create their own notices
 - Certain criteria must be met to be compliant
 - The forms for eligibility for premium assistance
 - Contact information for the plan administrator or other person maintaining relevant information in connection with the premium assistance
 - A description of the additional election period (if applicable)



COBRA SUBSIDIES 4.1.21

Employer/Plan Administrator Notice Requirements

- Employers may create their own notices (con't)
 - The requirement that the Assistance Eligible Individual notify the plan when becomes eligible for coverage under another group health plan or Medicare, and penalties
 - A description of the right to receive the premium assistance and the conditions for entitlement
 - If offered by the employer, a description of the option to enroll in a different coverage option available under the plan.



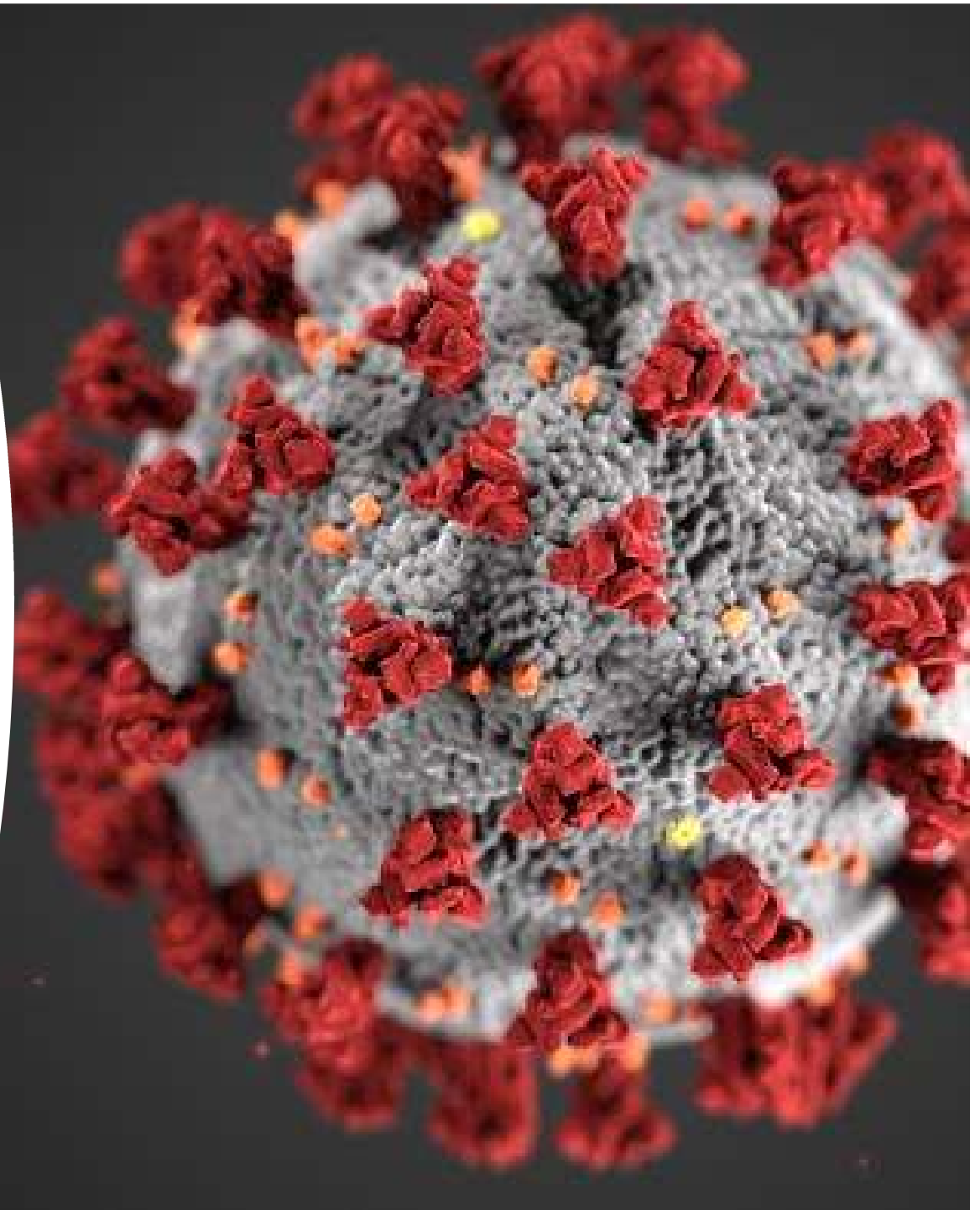
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Other Considerations

- Severance Agreements
 - Involuntary terminations with severance will affect COBRA language
 - References to any cost sharing related to COBRA should be removed
 - Ensure that language related to health plan continuation not contingent on signing agreement (during subsidy period)
- Loss of ACA benefits eligibility
 - Individuals losing coverage at end of stability period will be eligible for subsidy



WHAT'S
NEW
WITH
FFCRA?



WHAT'S NEW WITH FFCRA?

Families First Coronavirus Response Act (FFCRA)

- FFCRA was passed in March 2020 to provide additional paid time off and expanded FMLA benefits to employees
- Mandates ended on 12.31.20
- FFCRA tax credits extended, *on a voluntary basis* through 3.31.21
 - School closure for expanded FMLA (EFML) allows for payment with *tax credit only* and does not count toward traditional FMLA allotment, if time is taken between 1.1.21 and 3.31.21.



WHAT'S NEW WITH FFCRA?

American Rescue Plan Act of 2021

- Continues voluntary FFCRA tax credits through 9.30.21
- New 10-day paid sick leave bucket beginning 4.1.21
- Further expands original FFCRA rules to include
 - Increased tax credit limit for EFML to \$12,000
 - Leave to obtain COVID vaccine and recovery from vaccine related illness
 - Expands family leave tax credits for all qualifying uses of paid sick time
 - Ex. ee quarantine, caring for family member in quarantine, etc.
 - Non-Discrimination (ND) rules
- *Employers over 500 still exempt*



WHAT'S NEW WITH FFCRA?

Employer/Plan Administrator Requirements

- Determine whether to continue leave for employees
- Establish/update policies to ensure compliance with ND rules
- Update employee leave request forms for new leave reasons
 - Family Medical Leave for all reasons
 - Paid Sick Leave for vaccine reasons
- Track time off to allow for new “bank” of time on 4.1.21
- Retain all submitted information for tax credits



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THE HR WORKS DIFFERENCE

- Hands-on, personalized support model
 - Dedicated Consultants
 - Dedicated Resource for HR and employees
 - HR Works becomes an extension of the client's HR department
- Customized, tailored solution
 - Employee communications (co-branded materials, etc.)
 - Streamlined process through HR Works' access to client HRIS
 - Client self-service leave portal access (notifications, reporting, all leave info)
- Depth of expertise
 - Comprehensive, full-service HR, benefits, and leave consulting services
 - Broad range of HR expertise
- Carrier and Technology neutral solution
 - HR Works' Leave Administration continues in the event of a carrier change
 - HR Works' understands multiple HRIS systems and never requires a file feed or carrier connection



WHY OUTSOURCE?

- Reduced cost of administration
 - Turnover costs for recruiting, training, etc., are eliminated
 - Payroll costs of additional salary, employee benefits, paid time off, etc. are all eliminated
 - Professional Development and ongoing training costs are eliminated
- Mitigate risk – Continual process review to ensure compliance
- Allows internal HR resources to focus on strategic and core business initiatives
- Always up to date on the latest developments in industry and regulatory environment





THANK YOU!

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