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HR Insights

What You Need to Know to Manage the American Rescue Act Changes

We originally published this issue of *HR Insights* in March 2021 and now have updated this to include new developments and additional information.

This issue discusses the key provisions of the American Rescue Plan Act of 2021 (ARPA) that impact businesses. The ARPA, also known as the COVID-19 Stimulus Package, is a $1.9 trillion economic stimulus package created to address the adverse impact of COVID-19 on health and the economy. President Biden signed ARPA into law on March 11, 2021.

Direct Payments and Child Tax Credit

ARPA provides for direct stimulus payments to many across the U.S. as follows:

- Up to $1,400 for individuals making less than $75,000 annually and $1,400 for each dependent (For example, a family of four with parents making under $75,000 combined would receive $5,600.)
- Payments start to phase out at $75,000 for single filers, $112,500 for Head of Household filers, and $150,000 for joint filers.

In addition, ARPA expanded the Child Tax Credit from $2,000 annually to as much as $3,600 per child.

Unemployment Benefits

ARPA extends the programs (i.e., Pandemic Unemployment Compensation Program, Pandemic Unemployment Assistance, and Pandemic Emergency Unemployment Compensation) for those who lost employment due to COVID-19 through September 6, 2021. Under the extended programs:

- Individuals receiving unemployment benefits will be eligible for an additional $300 per week through September 6, 2021. **(Note: This has become a controversial benefit as some believe the additional $300 incentivizes people to not return to work. As a result, several states are opting out of the federal unemployment benefits, including Alabama, Arizona, Arkansas, Georgia, Idaho, Iowa, Mississippi, Missouri, Montana, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Utah, and Wyoming thus far.)**
- The maximum duration of benefits under Pandemic Emergency Unemployment Compensation has been increased from 24 to 53 weeks. This program is for individuals who exhausted state unemployment benefits before finding a job.
- The maximum duration of benefits under Pandemic Unemployment Assistance was increased from 50 to 79 weeks with those in high unemployment states eligible for up to 86 weeks. PUA benefits are for those who are not eligible for state benefits and who certify that they are able and available to work within the meaning of applicable state law, except for the fact that they are unemployed, partially unemployed, or unable to work because of a COVID-19 qualifying reason.

In addition, ARPA waives federal taxes on the first $10,200 of unemployment benefits for single individuals making less than $150,000 in 2020. For married couples, taxes are waived on the first $20,400.

COBRA Subsidy

Beginning April 1, 2021 through September 30, 2021 (i.e., the Subsidy Period), ARPA provides a 100 percent COBRA subsidy for certain eligible qualified beneficiaries who lose coverage as a result of an *involuntary termination of employment or reduction in hours*. Individuals who terminate employment or reduce hours because of voluntary termination, retirement, or death are not eligible for the subsidy. A summary of the COBRA subsidy follows:

Eligibility

An individual who lost coverage because of an involuntary termination of coverage or reduction in hours is eligible for the COBRA subsidy if the individual:

- Becomes eligible for COBRA coverage during the Subsidy Period, or

- Is a former employee who did not elect COBRA coverage or dropped it before the Subsidy Period began but who is still within their 18-month COBRA coverage period

Special Election Period

An individual who has not elected COBRA coverage before the Subsidy Period began or who elected it and then dropped it, may elect COBRA coverage during a special election period starting April 1, 2021, and ending 60 days after the date the individual received notice of the special election period.

Employer Notice Requirements

Employers must provide the following notices:

- **General Notice:** Employers must include information about the subsidy and if applicable, the option to enroll in different coverage in the COBRA Election Notice.
- **Notice of Extended Election Period:** Employers must notify individuals entitled to the extended election period of the opportunity to elect COBRA coverage prospectively for the Subsidy Period. Under ARPA, DOL must issue a model notice within 30 days.
- **Notice of Expiration of Subsidy:** Employers must notify individuals when the subsidy will expire no more than 45 days from expiration and no less than 15 days from expiration. Under ARPA, DOL must issue a model notice with 45 days.

The DOL has posted the model notices on its website at: https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy.

Circumstances Under Which Eligibility Can End Before the Subsidy Period Ends

Circumstances under which eligibility can end before the Subsidy Period ends include the following:

- Individual becomes eligible for other group health coverage or Medicare
- Individual's maximum coverage period ends before the Subsidy Period ends

Individuals must notify their health plan sponsor if they become eligible for other coverage or Medicare and are subject to penalties if they fail to do so.

Recouping the COBRA Premium Subsidy

Employers with self-funded plans or insurers in the case of fully insured plans must provide eligible individuals subsidized COBRA coverage and pay or incur the COBRA premium cost. Employers may recover their cost by claiming a credit against their quarterly Medicare payroll tax payment.

Increased Dependent Care Flexible Spending Account Limits (DCFSA)

IRS tax rules limit the maximum amount of contributions to a DCFSA that can be excluded from income taxes to $5,000 if married filing jointly and to $2,500 if single or married filing separately. ARPA temporarily increases the limits for 2021 only to $10,500 if married filing jointly and to $5,250 if single or married filing separately.

Employers are not required to offer the increase. However, if they do, they must:

- Notify participants of the change and give them the opportunity to increase their contributions to the DCFSA
- Amend their plan document for the change before the end of 2021

NOTE: Employers interested in offering the increase should evaluate the impact of doing so on nondiscrimination tests.

Tax Credit Extended for Employers that Voluntarily Provide Paid Leave

ARPA extended the tax credit for eligible employers who wish to voluntarily provide paid leave under Families First Coronavirus Response Act (FFCRA). The tax credit applies to qualifying wages for FFCRA leave taken during the period April 1, 2021 through September 30, 2021.

For employers that choose to provide paid leave, ARPA added two new qualifying reasons, effective April 1, 2021, that allow employees to qualify for FFCRA leave if unable to work because they are:

- Obtaining a COVID-19 vaccine, or are recovering from any illness, injury or condition related to the vaccine (e.g., side effects from the shot)
- Seeking or waiting for the results of a diagnostic test or awaiting a medical diagnosis

In addition, ARPA increased the maximum number of weeks under FFCRA for paid family leave from 10 to 12 weeks, for a total of 14 weeks including paid sick time. ARPA also provides that as of April 1, 2021, any prior FFCRA paid sick time taken by an employee does not count when determining the employee's available sick time. That is, as of April 1, 2021, an employee would be eligible for 10 paid sick days regardless of any paid sick leave paid to the employee before April 1.

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