

Additional FAQs on the ARPA COBRA Subsidy

On July 26, 2021, the IRS issued [Notice 2021-46](#), providing additional guidance on the application of the American Rescue Plan Act (ARPA) subsidy for continuation health coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) in the form of 11 questions and answers.

The Notice expands on [prior guidance](#) issued on May 18, 2021.

Background

The ARPA subsidy covers 100% of COBRA and state mini-COBRA premiums from April 1–Sept. 30, 2021, for certain assistance-eligible individuals whose work hours were reduced or whose employment was involuntarily terminated. The subsidy is funded via a tax credit provided to employers, insurers or group health plans, according to the terms of the statute.

Proposed Rule Would Update Benefit and Payment Parameters for 2022

On July 1, 2021, the Department of Health and Human Services (HHS) published a [proposed rule](#) that would revise several benefit and payment parameters under the ACA for the 2022 benefit year. While many of the proposed changes primarily impact insurers and Exchanges, some provisions may affect employers.

- The rule proposes to **repeal the Exchange direct enrollment option**, which establishes a process for Exchanges to work directly with issuers, agents and brokers to operate enrollment websites through which consumers can apply for coverage, receive an eligibility determination and purchase a qualified health plan.
- For the 2022 coverage year and beyond, the rule proposes to **lengthen the**

Q&A Topics

The questions addressed include:

- Subsidy availability to individuals eligible for an extension who had not elected it;
- Whether subsidies for vision or dental-only coverage ends due to eligibility for other coverage that does not include vision or dental benefits;
- Subsidy availability under a state statute that limits continuation coverage to government employees;
- Whether employers may claim the tax credit if the Small Business Health Options Program (SHOP) Exchange requires employers to pay COBRA premiums; and
- Which party may claim the tax credit in situations involving parties other than an insurer or former common law employer providing the COBRA coverage.

annual open enrollment period for coverage through all Exchanges to Nov. 1 through Jan. 15. The current annual open enrollment period runs Nov. 1 through Dec. 15.

- The rule proposes **modifications to the Section 1332 State Innovation Waiver process**, including changes to many of the policies and interpretations of the guardrails recently issued in the 2022 Notice of Benefit and Payment Parameters, which provided more flexibility for states to apply for waivers from certain ACA provisions.