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Correspondence Memorandum

Date: April 21, 2021
To: Group Insurance Board
From: Renee Walk, Lead Policy Advisor
 Office of Strategic Health Policy
Subject: American Rescue Plan Act COBRA Subsidy

This memo is for informational purposes only. No Board action is required.

Background

The American Rescue Plan (ARP) Act of 2021 was signed into law on March 11, 2021. One major provision of this legislation that applies to the Group Insurance Board's (Board) programs provides a subsidy for individuals who have lost employer-sponsored health insurance coverage due to an involuntary job loss or reduction of hours. This memo summarizes the provisions of the ARP COBRA subsidy, as well as information on implementation support provided by the Department of Employee Trust Funds (ETF).


ARP COBRA Premium Subsidy

The ARP provides a 100% premium subsidy from April 1, 2021, through September 30, 2021. The law requires employers to pay premiums on behalf of assistance eligible individuals (AEIs). Employers then seek credit for those premiums on their quarterly federal tax payments. In the event that the amount of premiums paid by employers exceeds what they would have paid in taxes for a given month, employers are allowed to claim any balance on their annual returns and will receive a refund.

The subsidy is available for any benefit that provides COBRA continuation, which for the Board includes health, pharmacy, uniform dental, supplemental dental, and vision plans.

Determining AEIs

COBRA qualified beneficiaries must meet certain criteria under the law in order to be considered AEIs. A qualified beneficiary must have suffered an involuntary loss of employment or an involuntary reduction in hours and must still have time left on their COBRA continuation time period in order to be considered for eligibility. In practical terms, this means that the qualified beneficiary's loss of coverage must have occurred on or after November 1, 2019. Individuals who were terminated for gross misconduct, as well as individuals who became COBRA eligible after a voluntary termination of

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employment, are not eligible for the subsidy. The qualified beneficiary's termination or hours reduction, however, does not need to be directly related to COVID-19.

Extended Enrollment Period

AEIs who either did not elect COBRA at the time of their termination or who elected but then dropped COBRA coverage are eligible for an enrollment opportunity created by ARP. Employers must notify any former employee who may be an AEI of the enrollment opportunity no later than May 31, 2021. These former employees then have 60 days to attest that they are AEIs and enroll in coverage. Former employees found to be AEIs can have their coverage backdated to April 1, 2021. AEIs may remain enrolled as long as their original COBRA period would have lasted; for example, an AEI who lost coverage in January 2020 but did not elect COBRA continuation at that time could re-enroll in coverage and receive the subsidy beginning on April 1, 2021. The AEI would remain enrolled and receive subsidy through June 30, 2021, at which point their 18-month COBRA period would expire and their coverage would end.

As mentioned earlier, the subsidy is effective through September 30, 2021. An AEI whose COBRA period extends beyond September 30 would be required to pay premiums beginning October 1 or would lose coverage.

End of Eligibility

In addition to the end of the COBRA period and the end of the subsidy period, AEIs may also lose eligibility for the subsidy if they become eligible for other employer group coverage or Medicare. If an AEI becomes eligible for other coverage, the AEI must notify their former employer of this eligibility and the employer will work with ETF to ensure the AEI is disenrolled. Any AEI who does not notify their former employer of this change in eligibility status may face a fine, and AEIs must notify their employer of this eligibility change regardless of whether they elect to enroll in the other coverage. Eligibility for Medicaid or individual marketplace coverage does not end an AEI's eligibility for the subsidy.

Implementation

To implement this change, ETF has provided guidance to employers via an *Employer News* publication, in addition to discussion at an employers' meeting hosted by ETF called the ETF Update in early April. This guidance provides employers with a form (ET-2314) and set of draft notices to provide to potential AEIs that must be sent no later than May 31, 2021. Employers have been instructed to query their own systems to determine how many potential AEIs they have who have been involuntarily terminated or had hours reduced since November 2019. At this time, ETF does not have an estimate of how many former employees this subsidy would impact.

COBRA qualified beneficiaries will return the form to their former employer who will validate that they are AEIs and will then submit those forms to ETF for processing. AEIs will receive premium invoices directly from their respective carriers and will submit those invoices to their former employers for payment. ETF had initially investigated whether it

was possible to process billing without sending an invoice to AEIs but determined that these changes would require a level of systems change that would delay subsidy implementation. ETF has curated a list of contacts at the Board's vendors who can assist employers in setting up payments should they desire to submit electronically on behalf of employees.

Initial guidance from the federal government has indicated that AEIs do not need to pay premiums for any of the months between April and September 2021, and that plans should not cancel coverage during this time. ETF has not advised, however, that current COBRA members cease paying premiums until their request for treatment as an AEI has been processed and confirmed, to avoid jeopardizing coverage in case they are not confirmed as AEIs. If an AEI does pay premiums for any months that are later determined to be eligible for subsidy, most vendors have indicated that they will credit the AEI's account for a future premium month. AEI's may request refunds from the vendor if they do not wish to keep the account credit; most plans are not currently set up to issue automatic refunds.

Staff will be available at the Board meeting to answer any questions.