

New Relief Bill Contains Employment-related Provisions

Along with providing financial relief for individuals, state and local governments, schools, businesses and for other purposes, the relief bill passed by Congress on March 10, 2021, contains measures of special interest to employers.

Specifically, the bill—known as the American Rescue Plan Act of 2021—includes the following items particularly relevant to employers and their employees:

- Subsidy for COBRA premiums, funded through employer and carrier tax credits
- Extension of employer tax credits for FFCRA employee leave voluntarily provided through Sept. 30, 2021
- Expansion of employee earnings eligible for FFCRA tax credit
- Inclusion of testing and immunization as reasons for FFCRA leave
- \$300 increase in weekly unemployment benefits
- \$300 weekly unemployment benefit for workers who normally wouldn't qualify for unemployment, like the self-employed
- Subsidy for ACA premiums
- Increase in DCAP contribution limits

President Joe Biden is expected to sign the bill into law.

Action Steps

Employers should review the bill's provisions to identify any requirements and opportunities that apply to them. Employers are also advised to monitor coverage of the bill, watching for official guidance on its implementation once it is signed into law.

BILL HIGHLIGHTS

COBRA Subsidy

A 100% premium subsidy is provided.

FFCRA Leave

The employer tax credit is extended and voluntary FFCRA leave is expanded.

Unemployment

Benefits are increased by \$300 weekly.

ACA

Exchange insurance subsidies are increased.

DCAP

Dependent Care Assistance Program contribution limits are raised.

IMPORTANT DATE

March 10, 2021

Congress passed the American Rescue Plan Act of 2021, which is expected to be signed into law by President Biden.

COBRA Subsidy

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) allows employees who would lose employer-sponsored health insurance because of job loss (or a reduction in working hours) to continue that insurance for 18 months. However, the employer can require the employee electing COBRA coverage to pay the entire cost of the premium.

The bill provides a 100% subsidy of COBRA premiums from April 1, 2021, through Sept. 30, 2021, for employees and their family members who lost health insurance due to the involuntary termination (or reduction in hours) of their employment. These individuals would be allowed to elect subsidized COBRA even if they had earlier declined the COBRA option, or had enrolled in COBRA and then dropped it. The subsidy would not apply to employees who voluntarily terminated their employment or who qualify for another group health plan.

The subsidy is funded by the federal government through a refundable tax credit for employers, if a plan is self-insured, and for insurance carriers, if the plan is insured. The bill contains new employee notice requirements for plan administrators; the U.S. Department of Labor will issue model notices for this purpose. Employees may elect subsidized COBRA any time from April 1, 2021, through 60 days after receiving notice of the benefit.

FFCRA Leave

The Families First Coronavirus Response Act (FFCRA), passed in March 2020, provided a tax credit for employers to fund two types of paid employee leave required by the law. These leave requirements expired in December 2020. However, the tax credits were extended through March 31, 2021, for employers that chose to continue to provide FFCRA leave beyond Dec. 31, 2020.

The bill extends the FFCRA employer tax credit for voluntarily provided leave through Sept. 30, 2021, and adds employee time off related to COVID-19 testing and immunization as permissible reasons for taking the voluntary leave. It also increases the amount of wages eligible for the family leave credit from \$10,00 to \$12,000 per employee, and it provides an additional 10 days of voluntary emergency paid sick leave for employees, beginning April 1, 2021.

Unemployment

The bill extends two pandemic-related federal unemployment programs that were otherwise scheduled to end on March 14, 2021. These include:

- Pandemic Unemployment Assistance (PUA), which provides a weekly \$300 benefit to independent contractors, self-employed individuals and other workers who would typically not be eligible for unemployment benefits; and

- Pandemic Emergency Unemployment Compensation (PEUC), which provides an additional \$300 weekly payment to individuals who are already receiving regular weekly unemployment or PUA benefits.

Under the bill, both of these benefits are now available through Sept. 6, 2021. The bill also changes how unemployment benefits received in 2020 are taxed. Specifically, it exempts the first \$10,200 from federal income tax for each spouse in households with under \$150,000 in adjusted gross income.

ACA

The bill temporarily increases the dollar amount and expands eligibility for federal subsidies for health insurance coverage purchased through the Affordable Care Act (ACA) Exchanges. Currently, the ACA's premium tax credits are not available to individuals with income at or above 400% of the federal poverty level. The bill temporarily eliminates this income cap on these subsidies for a period of two years.

The bill also:

- Limits the total amount a household would be required to pay for health coverage through the Exchanges to 8.5% of their household income;
- Increases the federal subsidy amounts available for lower-income individuals, eliminating premium costs completely for these individuals in some cases; and
- Includes additional federal funding intended to encourage states that did not previously expand their Medicaid programs to do so now.

These ACA changes are temporary, and will expire after a period of two years.

DCAP

For taxable years beginning after Dec. 31, 2020, and before Jan. 1, 2022, the bill increases the annual contribution limit for a dependent care assistance program (DCAP) from \$5,000 to \$10,500 (and from \$2,500 to \$5,250 for married individuals filing taxes separately).

Employers with DCAPs can retroactively amend their plans to incorporate this increase, if:

- The amendment is adopted by the last day of the plan year in which it is effective; and
- The plan operates consistently with the terms of the amendment until it is adopted.