

Holifield & Janich

PLLC

**Did You Notify Your Employees The COBRA Subsidy  
Terminated?  
If Not, You Should Do It Today  
By Tina Haley**

September 2021 E-Alert

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Last April, in our [E-Alert](#) “A Summary for Employers on the COBRA Subsidy Under The American Rescue Plan of 2021 (ARPA),” we discussed the adoption of pandemic-related legislation that offered certain workers eligible for COBRA coverage with temporary COBRA premium subsidies. The COBRA subsidy period runs for six months, from April 1, 2021, to September 30, 2021. If you provided the COBRA premium subsidy to your employees who qualified as “assistance eligible individuals” (also referred to as “AEIs”), you are required to provide them with written notice of the termination of their subsidy. ***The timeline for providing this notice is no later than 15 days and no earlier than 45 days before the end of their subsidy period.*** For those AEIs whose premium subsidy ended before September 30, the employer should have already provided the termination notice within this deadline timeframe. For those AEIs who expect to receive the premium subsidy until the end of the premium subsidy period on September 30 (regardless of whether their COBRA continuation coverage ends on that date), the deadline to provide this termination notice was September 15, 2021. The Department of Labor has provided a model termination notice that contains the information required under the ARPA. You may download this model notice at: <https://bit.ly/39mAvTR>

We recommend that employers who provided the COBRA subsidy review their COBRA records or coordinate with their COBRA provider to ensure all AEs receive their termination notices. A failure to provide the required notices will be considered a failure to notify qualified beneficiaries about their right to elect COBRA coverage. Such failures can expose the employer to excise tax penalties of \$100 per day for each such failure and the potential for litigation by qualified beneficiaries who may seek recovery of monetary damages as well as attorney's fees.

If you have any questions or seek additional guidance to comply with this notice requirement, please contact one of the firm's attorneys immediately.

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