

New COBRA Subsidy Guidance Addresses Outstanding Issues

August 9, 2021

The IRS recently issued Notice 2021-46 (the "**Notice**"), which provides new guidance in the form of FAQs regarding the application of the COBRA premium assistance provisions of the American Rescue Plan Act of 2021 (the "**COBRA Subsidy**"). The Notice supplements the IRS's prior Notice 2021-31 regarding the COBRA Subsidy and addresses additional matters.

Issues addressed in the Notice include, among others, (i) the availability of the COBRA Subsidy in situations where an individual is entitled to notify the plan administrator, but has not yet done so, of his or her eligibility for an extended COBRA coverage period due to a disability determination or the occurrence of a second COBRA qualifying event, (ii) the loss of an individual's entitlement to the COBRA Subsidy with respect to dental and vision coverage when he or she becomes eligible to enroll in other group health plan coverage or Medicare that does not provide dental or vision benefits, and (iii) the determination of the employer entity that may claim the tax credit for the COBRA Subsidy under various fact scenarios.

Plan sponsors should consult with their third-party COBRA administrators and benefits counsel to ensure compliance with this new guidance regarding the COBRA Subsidy.

The Notice is available [here](#).