

DATE: May 20, 2021
TO: All Insurers Authorized to Write Health Insurance in Wisconsin, Agents, and Interested Parties
FROM: Mark V. Afable, Commissioner of Insurance
SUBJECT: Updated State Continuation Premium Assistance

On May 18, 2021, the Internal Revenue Service (IRS) issued updated guidance regarding the premium assistance benefits under the American Rescue Plan Act of 2021 (ARPA).¹ The newly issued guidance maintains the benefit to employees who experience a qualifying event such that they can receive continuation coverage at no cost for the period between April 1 and September 30, 2021. However, the recent IRS guidance for group health plans subject solely to State continuation law shifted the responsible party for payment of the premium from employers to insurers and also that the insurers and not the employers would receive the tax credit against Medicare taxes.

To qualify for the temporary premium assistance an employee must have as a qualifying event a reduction in hours, or an involuntary termination of employment. Continuation coverage and premium assistance is available to the employee's spouse and dependents who were covered under the group health plan at the time of the employee's qualifying event. Employees have 60 days from the qualifying event to elect continuation coverage. OCI has updated the frequently asked questions for Wisconsin continuation coverage, which may be found here <https://oci.wi.gov/Pages/ARP.aspx>.

During the period between April 1 and September 30, 2021, OCI will enforce the requirement that the insurer treat premium assistance eligible individuals as having paid their premium in full. This requirement applies to eligible employees and dependents covered by an insured group health plan subject solely to Wisconsin continuation law. Additionally, if an employer or employee paid or pays continuation premium on or after April 1 on behalf of an assistance eligible individual, OCI requires the insurer to refund that premium amount in full within the later of 30-days from the date of this bulletin or receipt of the payment². Finally, OCI will not enforce the requirement under Wis. Stat. § 632.897 (8), that the premium be paid by the employee. Nonenforcement will simplify the process for an insurer to qualify for the tax credit.

Under ARPA, employers offering group health insurance are required to provide eligible employees the opportunity to elect continuation of the group insurance coverage. Employers that are subject to Wisconsin's continuation law must provide the Model ARPA notice for state continuation developed by the US Department of Labor. A copy of the model notice that has been adapted for Wisconsin may be found here: <https://oci.wi.gov/Pages/ARP.aspx> This model notice is required to be provided to all eligible employees who have a qualifying event between

¹ Internal Revenue Service notice issued May 18, 2021 <https://www.irs.gov/pub/irs-drop/n-21-31.pdf>.

² The requirement is made pursuant to OCI's authority under Wis. Stat. § 601.41(4).

April 1 and September 30, 2021. Consistent with the federal notice requirements regarding COBRA coverage, OCI also strongly encourages employers to give notice to any employee who had a qualifying event prior to April 1 and who is still eligible for coverage continuation under Wisconsin law. Employees electing continuation following this new opportunity would be eligible for coverage on a prospective basis from the date of the election. The duration of coverage cannot exceed 18 months from when the employee was first provided notice of their continuation rights.

In addition to continuation coverage through an employer, there are other affordable health insurance coverage options that consumers should consider prior to electing continuation coverage. Currently, the federal government has opened a new enrollment opportunity through the federal Marketplace and many private insurers in Wisconsin are offering a parallel enrollment period for plans off the Marketplace. Many consumers who enroll on the Marketplace are eligible for premium tax credits and can enroll in coverage at low cost.³

This bulletin may be updated if OCI obtains additional information. Any questions concerning this bulletin should be directed to Sarah Smith at Sarah.Smith2@wisconsin.gov.

³ Fact Sheet: <https://www.hhs.gov/about/news/2021/03/12/fact-sheet-american-rescue-plan-reduces-health-care-costs-expands-access-insurance-coverage.html>