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Extra Coverage Help Under the American Rescue Plan for New Yorkers Who Lost Jobs and Job-Based Insurance

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The American Rescue Plan Act (ARPA),[1] signed by President Biden on March 11, 2021, boosted the affordability of health coverage by building on Affordable Care Act provisions, as highlighted in a recent *HealthWatch* issue brief.[2] But the sweeping pandemic relief measure also provides special coverage help to New Yorkers who lost their jobs or job-based health coverage during the COVID-19 pandemic, by building on traditional safety net programs tied to unemployment.

This issue brief examines the ARPA provisions that will help consumers afford premiums on lost employer-based coverage (commonly known as COBRA), sharply reduce health costs for workers who received unemployment benefits in 2021, and protect taxpayers who underestimated their income in 2020 from having to repay premium tax credits that made coverage more affordable.

How to Learn More

This issue brief explains some of the new consumer protections and health coverage affordability enhancements in the recently enacted American Rescue Plan Act. If you have questions about how your eligibility for financial help is affected by these new rules, you can contact the New York State of Health marketplace at https://nystateofhealth.ny.gov or (855) 355-5777. Workers with questions or complaints about COBRA continuation coverage and special premium assistance can contact the U.S. Department of Labor's Employee Benefit Security Administration at https://www.dol.gov/agencies/ebsa/about-ebsa/ask-a-question/ask-ebsa or (866) 444-3272.

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Economic Impact of the Lockdown

Beyond the terrible toll of death and disease from the COVID-19 virus, the lockdown necessary to slow its spread took a tremendous toll on the state's economy and families. Just before the lockdown, in the week ending March 7, 2020, about 160,000 New Yorkers were receiving unemployment insurance benefits; two months later, by the first week of May, that number shot up to more than 1.8 million.[3] Federal legislation created a new unemployment insurance program (Pandemic Unemployment Assistance)[4] targeting workers ineligible for traditional programs, such as the self-employed, freelancers, and workers without a long job history; over 250,000 New Yorkers filed claims for these benefits for the week ending May 23, 2020, alone.[5] A series of federal laws[6] also supplemented and extended New York State unemployment benefits.[7]

In a nation that relies on employer-based coverage to insure over half of its citizens, many families found themselves without health coverage due to a layoff or death of a policyholder. But unemployment benefits, even when supplemented by new federal programs, still left many families without enough income to afford COBRA, often a source for coverage during such transition periods. And while many families became eligible for Medicaid during the pandemic—enrollment in the program has increased by nearly 1 million[8]—the added unemployment compensation reduced the amount of potential premium tax credits for families with incomes above Medicaid eligibility. Episodic employment, extensions of unemployment benefits, and federal supplemental payments also left some families at risk of having to repay tax credits for 2020 as their incomes fluctuated throughout the year. The ARPA addressed these problems in three ways, outlined below.

1. Subsidies for COBRA Continuation Coverage

Adopted nationally well before market reforms made individual coverage more accessible and affordable, the Reagan-era Consolidation Omnibus Budget and Reconciliation Act (COBRA) provisions[9] and state laws like New York's[10] allow workers and dependents who meet eligibility criteria to continue employer-sponsored coverage at their own expense for up to 18 months or longer, depending on the family's circumstances and the type of plan.[11] COBRA is an attractive option for those who can afford it, because it allows those covered to maintain relationships with trusted providers and access provider networks that are typically more expansive than those found in individual coverage or public programs, and it often includes a benefit allowing access to out-of-network providers. However, keeping such coverage is a big lift, given COBRA's cost: in 2019, annual COBRA premiums for private-sector employers in New York averaged nearly $8,000 for single coverage and almost $23,000 for a family plan,[12] and employers are permitted to add a 2% administrative fee. The ARPA[13] solves the affordability problem by setting the COBRA premium at $0 for eligible workers and dependents, and requiring employers, plan administrators, or insurers to front the payment, which can be recouped as a tax credit towards payroll taxes owed. The 100% subsidy level in the ARPA far exceeds the 65% subsidy included in the American Recovery and Reinvestment Act during the great recession[14] and the 85% level proposed in earlier versions of the bill.[15]

The new COBRA premium assistance program is available to individuals (or dependents) who became eligible for COBRA because of an involuntary termination or reduction in hours. Those who met these criteria and are covered under the federal COBRA statute but who declined coverage initially, or opted in but later dropped it, are granted a second enrollment window to choose to continue their COBRA coverage and access the premium assistance. Generally, workers at businesses employing more than 20 workers are covered under the federal COBRA law, while state laws cover the smaller firms. Individuals who left their jobs voluntarily are ineligible for the premium assistance, as are those who became eligible for other coverage through a new employer, family member, or Medicare. The premium assistance became effective on April 1, 2021, and expires on the earliest of September 30, 2021, the date that the COBRA coverage would have expired, or the date new "affordable" coverage becomes available through an employer, a family member, or Medicare. A U.S. Labor Department website has information on the premium assistance program for workers,[16] and the agency has also promulgated guidance and model notices for plan administrators and insurers to use to administer the benefit.[17] A summary[18] issued by the Labor Department shows what an eligibility notification looks like, explains how consumers can opt in for the assistance, and includes a form to submit to an employer for workers who are uncertain if they are entitled to the benefit. Guidance[19] issued by the U.S. Treasury contains detailed answers to the many questions that may come up in this highly technical area.

Employers, plan administrators, or insurers were required to notify workers of eligibility by May 31, 2021, and eligible employees and dependents have 60 days after receiving the notice to sign up for the premium assistance. Importantly, individuals who elect coverage under the program but who cannot afford COBRA when the federal premium assistance ends are eligible under New York's extended enrollment period to apply for coverage and financial help through the New York State of Health (NYSOH) marketplace.

2. Reducing Health Costs for Families Receiving Unemployment Compensation

The ARPA also provides an almost-free coverage option on the marketplace for families and individuals who received or who have been approved to receive compensation from state and federal unemployment insurance programs during calendar year 2021. Under a special rule for premium tax credit eligibility,[20] the income for any individual (or couple filing jointly) who receives unemployment benefits during 2021 for at least one week will be treated as if that income were no greater than 133% of the federal poverty level. This effectively and temporarily expands the number of New Yorkers eligible for a low-cost silver-level plan on the marketplace with the maximum premium tax credit available. Enrollees who meet this criterion—and who are otherwise ineligible for Medicaid, Medicare, Child Health Plus, the Essential Plan, or another "affordable" employer-sponsored plan—can sign up for a nearly free silver-level plan for 2021, with cost-sharing reductions that eliminate the deductible and cap maximum out-of-pocket expenses at $1,000 annually for individuals and $2,000 for families.[21]

Consumers can also choose to apply their tax credit to another type of plan besides the silver level, but they would then lose the cost-sharing reductions. A fact sheet issued by the marketplace[22] explains how to sign up for the assistance, which is in effect for the 2021 policy year and was implemented beginning in June 2021. Some consumers who were already enrolled in coverage through NYSOH may be entitled to a retroactive credit for months as far back as January 2021, which can be claimed when they file their taxes for the 2021 tax year.

3. Tax Credit Repayments Waived for 2020

In addition to improving affordability in 2021, the ARPA includes provisions[23] to shield marketplace consumers from additional 2020 tax liabilities linked to the premium subsidies they received. Under the Affordable Care Act and the American Rescue Plan Act, individuals and families without an affordable offer of coverage through their jobs who earn too much for Medicaid or the Essential Plan are eligible for tax credits to reduce the cost of health coverage purchased from the NYSOH marketplace,[24] if the unsubsidized benchmark premium exceeds 8.5% of their income. Consumers estimate their income based on their prior year's tax return; if they are eligible for tax credits, they can use them in one of two ways: reducing their monthly premium costs by taking all or a portion of the tax credits up front (an advance premium tax credit); or waiting until they file their tax returns and then claiming a refund reflecting the amount of credits they would have received based on their actual income. The marketplace provides consumers with a form[25] detailing their tax credit amounts, and consumers use that information to file another form[26] with their federal tax returns to reconcile the amount of credits received with actual income. Consumers who receive "excess" advance credits based on their actual income for the year are required to pay them back—except in the 2020 tax year.

With incomes fluctuating because of layoffs, reduced hours, a lingering recession, the extension of unemployment benefits and federal supplemental payments, accurately estimating income for ACA tax credit purposes was challenging for many families. The ARPA recognizes and addresses those difficulties by waiving repayments of excess credits for tax year 2020. Guidance[27] issued by the Internal Revenue Service provides detailed advice for taxpayers in different situations, such as those who have already repaid excess credits, have not yet filed a return, or are owed a refund.

Conclusion

ARPA provisions targeting families who have lost job-based coverage and are receiving unemployment benefits complement the deeper subsidies and expanded eligibility for financial help under the Affordable Care Act programs. According to one analysis,[28] an additional 2.2 million Americans will enroll in COBRA for coverage in 2021 with the new financial assistance, extended tax credits will lower premiums for an additional 1.4 million, and the waiver of tax credit repayment provisions will save U.S. consumers $6.3 billion. While the economy is improving as infections decline and new state and federal guidance relaxes COVID-19 restrictions—the U.S. unemployment rate recently hit its lowest level since March 2020—many New Yorkers are still in need. Federal unemployment data indicate that over 18,000 New Yorkers filed new unemployment insurance claims during the week ending June 5, 2021, and about 1.4 million were receiving unemployment benefits[29] as of May 22, 2021. The ARPA provisions discussed here could help New Yorkers dealing with job losses maintain health coverage while times are still so trying.

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Endnotes

1 H.R. 1319, American Rescue Plan Act. https://www.congress.gov/bill/117th-congress/house-bill/1319/text

2 Newell P. July 2021. *A Shot in the Arm: American Rescue Plan Act Boosts Health Coverage Affordability.* United Hospital Fund. https://uhfnyc.org/publications/publication/ARPA-boosts-health-coverage-affordability/

3 UHF analysis of U.S. Department of Labor Unemployment Insurance Weekly Claims Reports for March and April, 2020. https://oui.doleta.gov/unemploy/archive.asp

4 New York State Department of Labor. Unemployment Insurance. Pandemic Unemployment Assistance. https://www.dol.gov/coronavirus/unemployment-insurance

5 U.S. Department of Labor. News Release. May 28, 2020. Unemployment Insurance Weekly Claims. https://oui.doleta.gov/press/2020/052820.pdf

6 For a summary of federal enhancements to unemployment insurance programs, including the ARPA and the Coronavirus Aid, Relief and Economic Security Act, see Unemployment Insurance Program Letter No. 14-21. March 15, 2021. U.S. Department of Labor, Employment and Training Administration Advisory System. https://wdr.doleta.gov/directives/attach/UIPL/UIPL_14-21.pdf

7 For background information on New York's unemployment insurance program and its implementation of the federal enhancements, see New York State Department of Labor. Unemployment Insurance Assistance. https://dol.ny.gov/unemployment/unemployment-insurance-assistance

8 New York State Department of Health. NYS Enrollment Databook. Monthly NYS Medicaid Enrollment Trends. https://www.health.ny.gov/health_care/medicaid/enrollment/

9 Employee Benefits Security Administration, U.S. Department of Labor. *An Employee's Guide to Health Benefits Under COBRA*. https://www.dol.gov/sites/dolgov/files/legacy-files/ebsa/about-ebsa/our-activities/resource-center/publications/an-employees-guide-to-health-benefits-under-cobra.pdf

10 New York State Insurance Law, sections 3221(m) and 4305(e). New York is one of many states with a "mini-COBRA" law on the books, which addresses gaps in the federal COBRA law, such as providing continuation rights to employees at businesses with fewer than 20 employees. For background information, see New York State Department of Financial Services guidance: COBRA FAQs https://www.dfs.ny.gov/consumers/health_insurance/cobra_faqs and Health Insurance FAQs. https://www.dfs.ny.gov/consumers/coronavirus/health_insurance_faqs

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15 U.S. House Ways & Means Committee, Chairman Richard Neal. Press Release. February 8, 2021. Chairman Neal Announced Markup of COVID-19 Relief Measure. Section-by-section, Title F: Budget Reconciliation Recommendations Relating to Continuation of Job-Based Coverage. https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/6.%20COBRA%20SxS.pdf

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18 U.S. Department of Labor, Employee Benefits Security Administration. Summary of COBRA Premium Assistance Provisions Under the American Rescue Plan Act of 2021. https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/summary-of-provisions.pdf

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20 American Rescue Plan Act, H.R. 1319, sections 2305 and 9663.

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23 American Rescue Plan Act, H.R. 1319, section 9662.

24 For details on how tax credits work, the NY State of Health marketplace has many resources for consumers. https://nystateofhealth.ny.gov

25 NY State of Health Form 1095-A, webpage at https://info.nystateofhealth.ny.gov/taxcredits

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