



Law Alerts and Important Announcements

HR COMPLIANCE- THE OLSON GROUP



American Rescue Plan Act- Extension of EPSL and EFMLA

On March 11, 2021, President Joe Biden signed the American Rescue Plan Act of 2021 (HR 1319) (ARPA) to address the ongoing economic impacts of COVID-19.

Optional Extension of Sick and Family Leaves - FFCRA

Part of the ARPA is an extension of the current tax credit for Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave (EFMLA) under the Families First Coronavirus Response Act (FFCRA). The FFCRA required many employers to provide EPSL and EFMLA in 2020 but became optional when it was previously extended to cover January 1 through March 31, 2021.

The new extension under the ARPA takes effect April 1, 2021 through September 30, 2021 and remains optional. In addition, tax credits are available but only to employers with fewer than 500 employees and up to certain caps. **To receive the tax credit, employers are required to follow the FFCRA's original provisions.** For example, they cannot deny EPSL or EFMLA to an employee if they are otherwise eligible, cannot terminate them for taking EPSL or EFMLA, and must continue their health insurance during these leaves.

Emergency Paid Sick Leave (EPSL) Changes

Key changes to EPSL, effective from April 1 through September 30, 2021, are:

- Employees may take EPSL to get the COVID vaccine and recover from any related side effects.
- Employees may take EPSL when seeking or waiting for a COVID-19 diagnosis or test result if they've been exposed to the virus or if their employer required a diagnosis or test.
- Employees will be eligible for a new bank of leave on April 1. Full-time employees are entitled to 80 hours and part-time employees are entitled to a prorated amount. Unused hours from before April 1 will not carryover.
- Employers cannot provide EPSL in a manner that favors highly compensated employees or full-time employees or that discriminates based on how long employees have worked for the employer (tenure). This is discriminatory and will disqualify the employer from receiving the tax credit. Failing to comply with the FFCRA (including its antiretaliation provisions) also disqualifies employers from receiving the tax credit.

Emergency Family and Medical Leave (EFMLA) Changes

Key changes to EFMLA, in effect from April 1 through September 30, 2021, are:

- EFMLA may be used for any EPSL reason, in addition to the original childcare reasons. This includes the two new EPSL reasons noted above (vaccination and diagnosis/test results).
- The 10-day unpaid waiting period was eliminated.
- The cap on the reimbursable tax credit for EFMLA was increased to \$12,000 (from \$10,000). This applies to all EFMLA taken by an employee beginning April 1, 2020. This change accounts for the additional 10 days of paid time off; however, the daily cap of \$200 remains the same.



- Employers cannot provide EFMLA in a manner that favors highly compensated employees or full-time employees or that is based on how long employees have worked for the employer.

Reasons for Using EPSL and EFMLA

Starting on April 1, employees may take EPSL or EFMLA under the same conditions, which are:

1. When quarantined or isolated subject to federal, state, or local quarantine or isolation order.
2. When advised by a health care provider to self-quarantine because of COVID-19.
3. When the employee is:
 1. Experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 2. Seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 because they have been exposed or their employer requested the test or diagnosis; or
 3. Obtaining a COVID-19 vaccination or recovering from any injury, disability, illness, or condition related to the vaccination.
4. When caring for another person who is isolating or quarantining due to government or doctor's orders.
5. When caring for a child whose school or place of care is closed due to COVID-19.

Tax Credit Review

The tax credits available between April 1 and September 30, 2021 are the same as under the original FFCRA, except for the increased aggregate cap for EFMLA. Regardless of how much EPSL or EFMLA an employee used prior to April 1, 2021 the available tax credits are as follows:

- The credit available for EPSL when used for reasons 1, 2, or 3 (self-care) is up to 100 percent of their regular pay, with a limit of \$511 per day.
- The credit available for EPSL when used for reasons 4 or 5 (care for another) is up to 2/3 of their regular rate of pay, with a limit of \$200 per day.
- The credit available for EFMLA for any reason is up to 2/3 of their regular pay, with a limit of \$200 per day and a cap of \$12,000 per employee.

Employers may also claim a credit for their share of Medicare tax on the employee's wages and the cost of maintaining the employee's health insurance (qualified health plan expenses) during their absence.

American Rescue Plan Act - New COBRA Subsidies

The American Rescue Plan Act (ARPA), signed into law March 11, 2021, provides a 100% subsidy of premiums for employer-sponsored group health insurance continued under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and similar state continuation of coverage (mini-COBRA) programs.

ARPA subsidies cover the full cost of COBRA or mini-COBRA premiums from April 1, 2021, through Sept. 30, 2021, for employees (and their qualifying family members), if the employee lost or loses group health insurance due to an involuntary job loss or reduction in work hours (voluntary or involuntary). The subsidy applies to people who are still within their original COBRA or mini-COBRA coverage period, for the length of that coverage period, even if they declined or dropped COBRA or mini-COBRA coverage earlier.



The subsidy does not apply to:

- Individuals whose job loss was voluntary or the result of gross misconduct; or
- Individuals who are eligible for another group health plan or Medicare.

The subsidies are funded through a payroll tax credit. Employers are required to provide new notices about the subsidy to employees. The U.S. Department of Labor (DOL) will issue model notices for this purpose.

The U.S. Department of Labor's Employee Benefits Security Administration ("EBSA") released its guidance on the ARPA COBRA subsidy, including the issuance of downloadable model notices. Links to that guidance and the model notices are provided below. Among the FAQs are the following notes, which answer two of the most frequent questions we have received regarding the subsidy:

- (1) EBSA confirms that the subsidy is applicable to all employers subject to federal COBRA obligations and those employers subject to state "mini-COBRA" laws.
- (2) The ARPA COBRA subsidy applies to "all group health plans ... subject to ... COBRA." This would include, for example, dental and vision insurance benefits, to the extent those programs are health insurance and not fixed indemnity or discount card programs.

COBRA Premium Subsidy dedicated page, available at <https://www.dol.gov/COBRA-subsidy>

FAQs, available at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/cobra-premium-assistance-under-arp.pdf>

Model Notices:

- General Notice and Election Notice, available at <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-general-and-election-notice.pdf>
- Notice in Connection with Extended Election Period, available at <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-extended-election-periods-notice.pdf>
- Alternative Notice, available at <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/model-alternative-election-notice.pdf>
- Notice of Expiration of Premium Assistance, available at <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/notice-of-premium-assistance-expiration-premium.pdf>

Summary of the COBRA Premium Assistance Provisions, available at <https://www.dol.gov/sites/dolgov/files/ebsa/laws-and-regulations/laws/cobra/premium-subsidy/summary-of-provisions.pdf>

Overview

COBRA requires group health plans to allow covered employees and their dependents to continue their group health plan coverage when it would be lost due to specific events, such as a termination of employment or reduction in working hours. Individuals are usually allowed to continue their COBRA coverage for 18 months, although some similar state mini-COBRA laws mandate a longer coverage period.



Under COBRA, group health plans may require those covered to pay 102% of the premium for their continuing health insurance, leading many eligible individuals to decline coverage. The ARPA subsidy covers the full cost of COBRA or mini-COBRA premiums from April 1 - Sept. 30, 2021, for “assistance-eligible individuals.”

Covered Plans

The COBRA subsidy in the ARPA applies to group health plans subject to federal COBRA or to a state mini-COBRA program. Plans subject to federal COBRA are plans maintained by employers with 20 or more employees on more than 50% of the business days in the previous calendar year. Small-employer plans, small governmental plans and church plans are not subject to federal COBRA but may be subject to a state mini-COBRA law and therefore be covered by the ARPA’s COBRA subsidy provisions.

Health flexible spending arrangements under Section 125 cafeteria plans are not covered by the ARPA COBRA subsidy.

Assistance Eligible Individuals (AEI)

Individuals are eligible for the COBRA subsidy if they:

- Are a qualified beneficiary of the group health plan; and
- Are eligible for COBRA or mini-COBRA continuation coverage because of the covered employee’s involuntary termination (unrelated to gross misconduct) or reduction in hours of employment.

The subsidy is not available for people who voluntarily left their job. It is also unavailable for people who are eligible for Medicare or another group health plan, not including:

- A plan covering only excepted benefits;
- A qualified small employer health reimbursement arrangement; or
- A flexible spending arrangement.

Furthermore, individuals receiving a COBRA subsidy who become eligible for a group health plan or Medicare must inform the health plan for which they are receiving the subsidy of that fact or face a penalty. The premium subsidy is not counted as gross income.

Extended Election Period

The ARPA allows individuals to elect subsidized COBRA if they:

- Become eligible for COBRA or mini-COBRA due to involuntary job termination (not caused by gross misconduct) or reduction in hours between April 1 and Sept. 30, 2021;
- Previously declined COBRA or mini-COBRA after becoming eligible due to involuntary job termination (not caused by gross misconduct) or reduction in hours, but would still be within their COBRA or mini-COBRA coverage period had they elected the coverage at that point; or
- Previously elected COBRA or mini-COBRA but discontinued the coverage before April 1, 2021.

The election period for subsidized COBRA under ARPA begins on April 1, 2021 and runs until 60 days after the date individuals receive notice from the health plan of the availability of the COBRA subsidy.

Duration of Coverage

COBRA and mini-COBRA coverage under the ARPA election extension starts with the first period of coverage beginning on or after April 1, 2021 and continues through the end of the individual’s COBRA or mini-COBRA coverage period. The individual’s COBRA or mini-COBRA coverage period is the period that would have applied had the individual elected the



continuation coverage when first eligible following the initial qualifying event. For individuals who previously elected COBRA or mini-COBRA, discontinued it, and are now using the ARPA extended election period to obtain COBRA, the COBRA coverage period is calculated as if they had not dropped the coverage.

Switching Coverage

The ARPA contains a provision that—at the employer’s option—allows individuals eligible for the COBRA subsidy and enrolled in the employer’s group health plan to change to different health coverage also offered by the employer. The new coverage cannot have a higher premium than the individual’s previous coverage, and it must be offered to similarly situated active employees. The option does not apply to plans that provide only excepted benefits, to qualified small employer health reimbursement arrangements or to health flexible spending arrangements.

The change must be elected within 90 days of the employee receiving notice of the option.

Notice Requirements

General Notice

Plan administrators must provide notification of COBRA benefits under ARPA. The notice must be written in clear and understandable language, and it must inform recipients of the availability of ARPA premium assistance and the option under the ARPA to enroll in different coverage (if the employer permits the option).

The notice must be provided to individuals who become eligible for COBRA or mini-COBRA during the period of April 1 - Sept. 30, 2021. In addition, it must be provided by May 31, 2021, to people who have already elected COBRA coverage, and to people subject to the ARPA election extension—that is, people eligible for the subsidy who declined or discontinued COBRA or mini-COBRA before April 1, 2021.

The notification may be included in an amendment to a plan’s existing notices or be given in a separate notice, but it must contain the following information:

1. The forms necessary for establishing eligibility for premium assistance
2. The name, address and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with premium assistance
3. A description of the extended election period under the ARPA
4. A description of the obligation of qualified beneficiaries to notify the plan if they become eligible for another group health plan or Medicare, and the penalty for failure to do so
5. A prominently displayed description of the right to a subsidized premium and any conditions on entitlement to the subsidized premium
6. A description of the option of the right to enroll in different coverage (if the employer permits this option)

Notice of Expiration of Subsidy

Plans must also provide individuals eligible for the ARPA subsidy with notice of its expiration. The notice must be written in clear and understandable language, and inform recipients that:

- The premium assistance will expire soon, prominently identifying the expiration date; and
- The individual may be eligible for coverage without premium assistance through COBRA continuation or a group health plan.

Plans are not required to issue an expiration notice to individuals whose subsidy is expiring because they became eligible for other group health plan coverage or Medicare.



The notice must be provided during the 45 - 15-day period before the individual's subsidy expires. The DOL must issue model expiration notices by April 25, 2021.

Tax Credit

The ARPA COBRA subsidy is funded through a tax credit to employers whose plans are subject to federal COBRA or are self-insured, to the plan for multiemployer plans, and to the insurer for other plans. The credit is taken against payroll taxes. It can be advanced (according to forms and instructions to be provided by federal agencies) and is fully refundable. The credits will be provided each quarter in an amount equal to the premiums not paid by assistance-eligible individuals.

American Rescue Plan Act - ACA

The ARPA 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 ARPA temporarily eliminates this income cap on these subsidies for a period of two years.

The law 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.

American Rescue Plan Act – DCAP

For taxable years beginning after Dec. 31, 2020, and before Jan. 1, 2022, the ARPA 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.

Section 125 Plans, Health FSAs and DCAPs

Mid-year Election Change Rules

On May 12, 2020, the IRS released Notice 2020-29, which provides temporary flexibility for mid-year election changes under a Section 125 cafeteria plan during calendar year 2020. The changes are designed to allow employers to respond to changes in employee needs as a result of the COVID-19 pandemic.

This guidance relates to mid-year elections for self-insured and fully insured employer-sponsored health coverage, health flexible spending arrangements (health FSAs) and dependent care assistance programs (DCAPs).



For employer-sponsored health coverage, a Section 125 cafeteria plan may permit an employee to prospectively:

- Make a new election if the employee previously declined coverage;
- Revoke an existing election and enroll in different health coverage sponsored by the employer; or
- Revoke an existing election, if the employee is or will be enrolled in other health coverage.

Employees may also prospectively revoke an election, make a new election or decrease or increase an existing election for a health FSA or DCAP. A plan may permit any of the election changes described in the notice, regardless of whether they satisfy existing mid-year election change rules.

Extended Period for Using Health FSA and DCAP Funds

Due to the COVID-19 outbreak, employees may be more likely to have unused amounts in their health FSAs or DCAPs. IRS Notice 2020-29 allows employers to permit employees to apply unused amounts remaining in a health FSA or a DCAP at the end of a plan year ending in 2020 (or a grace period ending in 2020) to pay or reimburse expenses incurred through Dec. 31, 2020. This relief applies to all health FSAs, including health FSAs that allow carryovers.

Carryover Limit

IRS Notice 2020-33 increases the health FSA carryover limit for unused funds remaining at the end of a plan year from \$500 to \$550 to reflect indexing for inflation. This change is effective for plan years beginning in 2020 (and reflects the maximum amount that may be carried over to the immediately following plan year beginning in 2021).

Qualified Medical Expenses

On March 26, 2021, the Internal Revenue Service (IRS) released IRS Announcement 2021-7, which states that personal protective equipment such as masks, hand sanitizer, and sanitizing wipes that are purchased “for the primary purpose of preventing the spread of COVID-19” (COVID-19 PPE) are qualified medical expenses under Section 213(d) of the Code.

Health savings account (HSA) participants may likely use the funds in their HSA to pay for masks, hand sanitizer, and sanitizing wipes on a pre-tax basis. Sponsors of flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs) may also allow these expenses to be reimbursed from their plans.

Many plans will be drafted to allow all Section 213(d) medical expenses, now including COVID-19 PPE, and may not require any amendment for these expenses to be eligible back to January 1, 2020. If an amendment is required, then plan sponsors must make the election change prior to December 31, 2022 for the change to be retroactive to January 1, 2020.

Section 125 Plan Amendments

Employers that implement these changes must adopt an amendment for their Section 125 cafeteria plans by Dec. 31, 2021. Employees must also be notified of the changes.

CDC Guidance for Fully Vaccinated

On March 8, 2021, the Centers for Disease Control and Prevention (CDC) released its first Interim Public Health Recommendations for Fully Vaccinated People guidance under which fully vaccinated people can:

- Visit with other fully vaccinated people indoors without wearing masks or physical distancing.
- Visit with unvaccinated people from a single household who are at low risk for severe COVID-19 disease indoors without wearing masks or physical distancing.



- Refrain from quarantine and testing following a known exposure if asymptomatic.

However, the CDC recommends that fully vaccinated people should continue to:

- Take precautions in public like wearing a well-fitted mask and physical distancing.
- Wear masks, practice physical distancing, and adhere to other prevention measures when visiting with unvaccinated people who are at increased risk for severe COVID-19 disease, including household members.
- Wear masks, maintain physical distance, and practice other prevention measures when visiting with unvaccinated people from multiple households.
- Avoid medium- and large-sized in-person gatherings.
- Get tested if experiencing COVID-19 symptoms.
- Follow guidance issued by individual employers.
- Follow CDC and health department travel requirements and recommendations.

Form I-9 Requirements Extended Again

Effective April 1, 2021, the U.S. Citizenship and Immigration Services (USCIS) announced another extension of the flexibility in complying with requirements related to Form I-9, Employment Eligibility Verification, due to COVID-19. The requirement that employers inspect employees' Form I-9 identity and employment eligibility documentation in-person applies only to those employees who physically report to work at a company location on any regular, consistent, or predictable basis.

If employees hired on or after April 1, 2021, work exclusively in a remote setting due to COVID-19-related precautions, they are temporarily exempt from the physical inspection requirements associated with the Employment Eligibility Verification (Form I-9) under Section 274A of the INA until they undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated, whichever is earlier.

The flexibilities discussed here do not preclude employers from commencing, in their discretion, the in-person verification of identity and employment eligibility documentation for employees who were hired on or after March 20, 2020, and presented such documents for remote inspection in reliance on the flexibilities first announced in March 2020.

Overview of Unemployment Benefits Changes Under ARPA and CARES Act

American Rescue Plan Act (ARPA)

On March 11, 2021, the President signed the [American Rescue Plan Act](#) (ARPA) into law, which amends provisions of the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Many of the UI-related provisions in the CARES Act were modified and extended to September 6, 2021 (beyond its March 14, 2021 expiration date). Specific to unemployment insurance (UI), ARPA:

- Continues the federal increase for all unemployment benefits, adding \$300 to each week of benefits through September 6, 2021.
- Extends Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) through September 6, 2021. Under this benefit:
 - PUA claimants may receive up to 79 weeks of benefits (an increase from 50 weeks) for weeks of unemployment ending after March 14, 2021:



- In states where the week of unemployment ends on a Saturday, the first payable week of PUA is the week ending on March 20, 2021, and the last payable week of PUA is the week ending on September 4, 2021.
- In states where the week of unemployment ends on a Sunday, the first payable week of PUA is the week ending on March 21, 2021, and the last payable week of PUA is the week ending on September 5, 2021.
- PEUC claimants may receive up to 53 weeks of PEUC in total (increased from 24 weeks). No benefits are payable under ARPA for any week of unemployment ending on or before March 14, 2021.
- Continues the federally funded Extended Benefits (EB) for eligible states through weeks of unemployment beginning before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which full federal funding is available is the week ending on September 11, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which full federal funding is available is the week ending on September 5, 2021.

Coronavirus Aid, Relief and Economic Security Act (CARES)

The Coronavirus Aid, Relief, and Economic Security (CARES) Act became law on March 27, 2020 and is a \$2.2 trillion economic stimulus package designed to support individuals and businesses affected by the COVID-19 pandemic. This act is important because it provides federal dollars at this time of crisis to state unemployment insurance benefit (UI) programs and to individuals who would not normally have this assistance. The act is separate from the Families First Coronavirus Response Act (FFCRA), which was enacted mid-March.

The CARES Act makes significant changes to UI benefits, which are administered by the states. The CARES Act allows states to **opt** into an agreement with the federal government to receive enhanced UI benefits and Pandemic Unemployment Assistance (PUA) funded by the federal government.

Since individual determinations about worker eligibility for UI benefits are made by individual states, we recommend employers do not speculate about or attempt to calculate how much their workers will receive.

Additional Cash Benefits for Claimants and Longer Benefit Period

The CARES Act added an additional \$600 to the weekly UI benefits amount that an individual would normally receive, for up to four months, through July 31, 2020. (Some individuals may earn more than they would working.) The \$600 is in addition to the state benefit amount and applies to all unemployed workers. The act also increases the length of time someone can be on unemployment benefits to a maximum of 39 weeks (for many states, this will be an increase of 13 weeks of benefits).

While these unemployment benefits are generous, employers should still consider their options and incentives under the CARES Act to keep workers employed before making decisions about reduced hours, furloughs, or layoffs.

More Workers Will be Eligible for Pandemic Unemployment Assistance (PUA)

The PUA program provides supplemental unemployment insurance benefits to individuals who would not normally qualify for traditional UI benefits, such as:

- Self-employed workers;
- Independent contractors;
- Gig workers;



- Low wage workers who can no longer work because of the pandemic;
- Those without sufficient work history; and
- Individuals who have exhausted their regular unemployment benefits and extended federal benefits (traditional employees may apply for PUA after all of their other unemployment benefit options have expired).

The PUA program runs from January 27, 2020, to December 31, 2020. This means unemployment assistance is available to covered individuals for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 beginning on or after January 27, 2020, and ending on or before December 31, 2020.

Qualifications

A **covered individual** for PUA includes anyone who is not eligible for regular unemployment compensation or expanded benefits and who provides “self-certification” that they are able and available to work but unemployed or partially unemployed or unable to work because of any of the following:

1. They were diagnosed with COVID-19 or are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
2. A household member was diagnosed with COVID-19;
3. They are providing care for a family member or household member diagnosed with COVID-19;
4. They are the primary caregiver for a child, or another person in their household, who is unable to attend school or another facility that is closed as a direct result of COVID-19 and that school or such facility care is required for the individual to be able to work;
5. They are unable to reach their workplace because of a quarantine imposed as a direct result of COVID-19;
6. They are unable to reach their workplace because a health care provider has advised them to self-quarantine because of COVID-19 related concerns;
7. They were scheduled to commence employment and do not have a job or are unable to reach the job as a direct result of COVID-19;
8. They have become the breadwinner or major support for a household because the head of household died as a direct result of COVID-19;
9. They had to quit their job as a direct result of COVID-19;
10. Their workplace is closed as a direct result of COVID-19; or
11. They meet any additional criteria established by the Secretary of the Department of Labor for unemployment assistance.

Individuals who are **able to telework with pay** or who are **receiving paid sick leave or other paid leave benefits**, regardless of whether they meet any of the qualifications above, will not qualify for these benefits.

One-Week Waiting Period for UI Benefits Removed

The CARES Act provides federal funding for states to remove the waiting week to receive unemployment compensation. However, many states voluntarily removed their one-week waiting period prior to the act’s passage, and remaining states may also remove their waiting period.

Employees who experience reduced hours, furloughs, or layoffs should be encouraged to file for UI benefits as soon as possible by following their state’s website guidance. We are directing clients to contact their state employment department for questions about these expanded unemployment insurance benefits because the law is in flux and these departments are the most qualified to answer questions about their (and the federal) UI programs.



PPP Extension Act of 2021

On March 30, 2021, President Biden signed the Paycheck Protection Program (PPP) Extension Act of 2021 (HR 1799) which extends:

- The PPP application deadline to May 31, 2021; and
- The PPP authorization through June 30, 2021 to provide the Small Business Administration additional time to process applications received by the application deadline.

The law took effect on March 30, 2021.

EEOC Opening Date for 2019 and 2020 EEO-1 Component 1 Data Collection

On March 29, 2021, the U.S. Equal Employment Opportunity Commission (EEOC) announced that:

- The 2019 and 2020 EEO-1 Component 1 data collection will open on Monday, April 26, 2021; and
- The deadline for submitting 2019 and 2020 EEO-1 Component 1 data will be Monday, July 19, 2021. The data collection period for this year is extended to 12 weeks (from 10 weeks) to provide employers additional time to file in recognition of how differently the pandemic has effect workplaces and the requirement to submit two years of EEO-1 data.

The EEO-1 Component 1 collects workforce data from employers with 100 or more employees (and federal contractors with 50 or more employees). The EEOC will begin to formally notify EEO-1 filers via email beginning on March 29, 2021 and filers should begin preparing to submit data in anticipation of the April 26 opening of the data collection period.

OSHA Updated Interim Enforcement Response Plan for COVID-19

On March 12, 2021, the Occupational Safety and Health Administration (OSHA) released an Updated Interim Enforcement Response Plan for COVID-19 which provides new instructions and guidance about how it will handle COVID-19-related complaints, referrals, and severe illness reports, summarized as follows:

- OSHA will continue to implement the Department of Labor's (DOL) COVID-19 Workplace Safety Plan to reduce the risk of COVID-19 transmission to OSHA Compliance Safety and Health Officers (CSHOs) during inspections.
- Pursuant to the March 12, 2021 National Emphasis Program (NEP) for COVID-19, OSHA will prioritize COVID-19-related inspections involving deaths or multiple hospitalizations because of occupational exposures to COVID-19. The NEP also protects against worker retaliation.
- OSHA will perform the following types of workplace inspections, generally on-site:
 - OSHA identifies exposures to COVID-19 hazards, ensures that appropriate control measures are implemented, and addresses violations of OSHA standards and its General Duty Clause.



- OSHA will sometimes use phone and video conferencing, instead of face-to-face employee interviews, to reduce potential exposures to CSHOs. In-person interviews will be conducted when necessary and safe.
- OSHA will minimize in-person meetings with employers and encourage employers to provide documents and other data electronically to CSHOs.
- Area Directors (AD) will ensure that CSHOs are prepared and equipped with the appropriate precautions and personal protective equipment (PPE) when performing on-site inspections related to COVID-19 and throughout the pandemic.
- All inspections will generally be done so that COVID-19-related citations, and their abatement, are done quickly.
- If on-site inspections cannot safely be performed (for example, if the only available CSHO has reported a medical contraindication), the AD will approve remote-only inspections that may be conducted safely.

This plan revokes the administration's May 19, 2020 plan, remains in effect until further notice, and is intended to be time-limited to the current COVID-19 public health crisis.

2019 and 2020 EEO-1 Reporting to Open at End of April 2021

On March 12, 2021, the U.S. Equal Employment Opportunity (EEOC) announced that the EEO-1 Component 1 data collection for 2019 and 2020 will open at the end of April 2021 and close in July 2021. Filers should begin preparing to submit data in anticipation of the April 2021 opening. The exact closing date will be posted when the data collection launches. Employers will be notified of additional details and how to access the online filing system in April.