



Weekly Digest

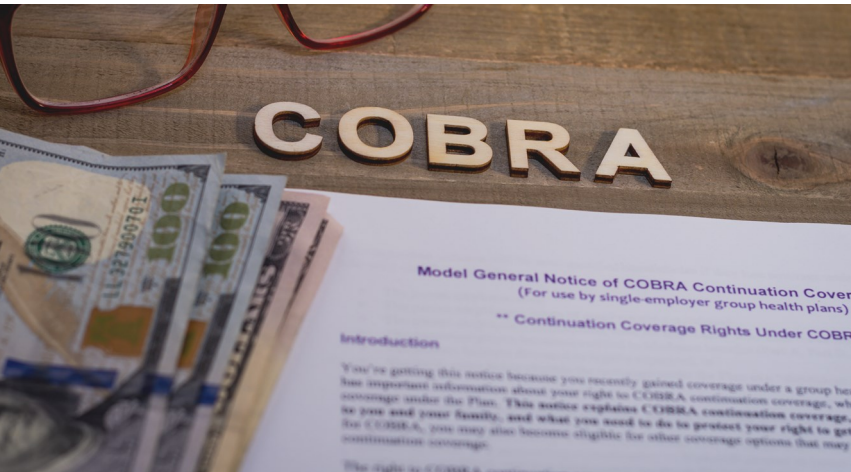
• April 13, 2021 •



DOL Releases Model Notices and FAQs Related to Full COBRA Premium Subsidies

“Employers sponsoring group health plans that are subject to COBRA now have access to model notices and guidance from the Department of Labor (DOL) related to the full COBRA premium subsidy provisions in the American Rescue Plan Act of 2021. On April 7, 2021, the DOL released model notices and frequently asked questions related to these premium subsidies.” [Full Article](#)

Miller Johnson



COBRA Subsidy Effects on Severance Programs and Employee Separations

“Employers that pay for a terminated employee’s COBRA premiums as part of a severance program should understand that in most cases, during the next six months, this will no longer be a benefit which can serve as adequate consideration for a release of claims.... Employers should review recent and current severance and separation issues and implement [certain] changes.” [Full Article](#)

Frost Brown Todd

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Departments Release FAQs on Implementing the Mental Health and Substance Use Disorder Parity Requirements under the Consolidated Appropriations Act

"[[The FAQs](#)] provide a detailed list of information that, at a minimum, must be included in the comparative analysis for each NQTL. The Departments note that the list of minimum required content 'closely aligns' with guidance that the DOL has previously provided in the form of the Self-Compliance Tool for the MHPAEA[.]" [Full Article](#)

Faegre Drinker

Can Mandatory Arbitration Rein in ERISA Litigation? Appellate Courts Weigh In

"ERISA is silent on arbitration, but the Federal Arbitration Act encourages arbitration of disputes. Two relatively recent Supreme Court decisions upheld arbitration clauses in the employment context, although the Supreme Court has not specifically addressed the permissibility of mandatory arbitration under ERISA. In the meantime, federal courts are grappling with these issues in inconsistent decisions." [Full Article](#)

Cohen & Buckmann, P.C.

Identifying Plan Assets in ERISA Health & Welfare Plans

"The process of determining when employer assets are considered plan assets requires consideration of where the assets are held and [of] any restrictions on [their] use ... as well as contracts, legal instruments, employer intentions, and representations made to participants and beneficiaries that might bear on whether the plan has a legal interest in the assets." [Full Article](#)

Verrill Dana LLP

How Denial Of Autism Care Coverage Can Breach ERISA Duty

"[T]he court found: 'On its face, the ABA/IBT exclusion creates a separate treatment limitation applicable only to services for a mental health condition (Autism).' ... Although UnitedHealth's final argument was that the Parity Act addresses limitations rather than exclusions, the court rejected UnitedHealth's position, deeming it a distinction without a difference." [[Doe v. United Behavioral Health, No. 19-7316 \(N.D. Cal. Mar. 5, 2021\)](#)] [Full Article](#)

DeBofsky Sherman Casciari Reynolds

Employer Gets Whacked on Workers' Comp, FMLA Overlap

"FMLA leave can run concurrently with a workers' compensation leave, or with paid sick leave.... It's a good idea to get the FMLA clock running right away. Although you are not required to let FMLA and other leaves run concurrently, it is to your advantage to do so." [[Ramji v. Hospital Housekeeping Systems, LLC, No. 19-13461 \(11th Cir. Apr. 6, 2021\)](#)]." [Full Article](#)

Constangy, Brooks, Smith & Prophete

