

# Biden Proposes Temporary Subsidies for COBRA Coverage

Under the proposal, laid-off workers could receive government aid for COBRA benefits

By Stephen Miller, CEBS

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**D**ays before his inauguration, President-elect Joe Biden outlined an agenda for COVID-19 relief and economic recovery that includes federal aid for health care expenses, such as providing subsidized COBRA coverage.

The relief and stimulus proposals in Biden's \$1.9 trillion American Rescue Plan package range from asking Congress for additional \$1,400 checks for low- and middle-income wage earners to reimbursing employers with 500 or fewer employees for providing paid leave ([www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/american-rescue-plan.aspx](http://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/american-rescue-plan.aspx)). Other provisions focus on helping consumers with health care expenses.

According to a Jan. 14 fact sheet from the Biden-Harris transition team (<https://bluevirginia.us/2021/01/fact-sheet-president-elect-biden-announces-american-rescue-plan>), the new administration will immediately ask Congress to:

- **Subsidize COBRA health coverage through Sept. 30, 2021**, for workers who lost their employer-sponsored health insurance, with a 100 percent tax credit for COBRA coverage premiums.
- **Expand and increase the value of the Affordable Care Act's (ACA's) premium tax credits**, to lower or eliminate health insurance premiums for ACA marketplace plans by ensuring plan enrollees will not pay more than 8.5 percent of their income for coverage and expanding existing tax credits for people who earn up to 400 percent of the poverty level.

"Roughly two to three million people lost employer-sponsored health insurance between March and September, and even families who have maintained coverage may struggle to pay premiums and afford care," according to the transition team's fact sheet. "Together, these policies would reduce premiums for more than 10 million people and reduce the ranks of the uninsured by millions more."

## Existing COBRA Relief

Employers may require terminated workers who choose to continue coverage under the employer-sponsored health plan for up to 18 months to pay for COBRA coverage, with premiums limited to the full cost of the coverage plus a 2 percent administration charge. That cost, however, is not affordable for many newly unemployed workers.

During the pandemic, some employers are choosing to pay for the COBRA coverage ([www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/canwepayforaformerorcurrentemployeescobracoverage.aspx](http://www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/canwepayforaformerorcurrentemployeescobracoverage.aspx)) of former employees who were laid off, or to do so for current employees who lost group health plan coverage when they were furloughed or had their hours reduced.

Last April, the Department of Labor and the IRS issued regulations extending the deadlines for COBRA notices, elections and premium payments from March 1, 2020, until 60 days after the end of the ongoing COVID-19 national emergency. "While the usual statutory penalties for COBRA violations should not apply [for now], failing to notify COBRA-qualified beneficiaries of their rights may increase the likelihood of a breach of fiduciary duty claim (<https://cohenbuckmann.com/insights/2020/11/17/navigating-the-cobra-deadline-extension>)," Emily Meyer, an attorney with Cohen & Buckman in New York City, wrote in November.

## Other Health Care Proposals

Among other health care-related agenda items, the new administration will ask Congress to:

- Appropriate \$4 billion to enable the Substance Abuse and Mental Health Services Administration and the Health Resources and Services Administration to expand access to their services.
- Authorize an additional \$20 billion to make sure veterans' health care needs can be met through the pandemic.
- Provide new funding for health services targeting underserved populations, including expanding community health centers.

## A Partisan Divide

The fate of the health care provisions is uncertain at this time. Congressional Democrats welcomed Biden's proposals. Rep. Steven Horsford, D-Nev., for instance, issued a statement saying he was "glad to see that the plan provides critical subsidies (<https://horsford.house.gov/media/press-releases/congressman-steven-horsford-s-statement-support-president-elect-biden-s>) [for COBRA and ACA plans] to help American families access health care during this critical time."

Republicans have criticized the extent of the new proposals, estimated to cost an addition \$1.9 trillion over existing relief. Efforts by Congress "should be strategic, focusing on families and small businesses in need (<https://www.rickscott.senate.gov/sen-rick-scott-biden-covid-19-spending-package-families-need-targeted-relief-not-blue-state>)," said Sen. Rick Scott, R-Fla.

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