

COBRA:

The Developing Law



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What's New and Filing Instructions

Enclosed is the 3r Qtr. 2021 Update Package for *COBRA: The Developing Law*—the authoritative COBRA resource for employers, administrators, and advisors.

This quarterly update package includes replacement pages for the Outline and Appendix. Please see the filing instructions at the end of this letter for a detailed explanation of what pages to remove and replace in your manual.

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EBIA's *COBRA: The Developing Law* manual is updated quarterly.

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We have made numerous changes to the Outline (there are no changes to the Appendix this quarter). Here are some highlights:

- **ARPA COBRA Subsidy**
 - Section VI.H has been updated for recent IRS guidance on the COBRA premium subsidy. We highlight many of the 86 Q&As, which address (among other topics) the subsidy's eligibility requirements, the definitions of "reduction of hours" and "involuntary termination," applicability health reimbursement arrangements, extended election periods, and interaction with the COVID-19 Outbreak Period deadline extensions.
- **Exchange Enrollment After Loss of Subsidized COBRA**
 - In Section XXVI.N, we highlight final regulations providing an Exchange special enrollment period upon the complete cessation of employer contributions toward the cost of COBRA coverage or upon the cessation of government subsidies such as the ARPA premium subsidy.
- **Qualifying Events**
 - In Section VII, we have added two cases that remind us that a COBRA qualifying event requires both a triggering event and a loss of coverage. In one case, an employee was denied COBRA after she lost coverage because her employer failed to forward health plan premiums to the insurer. The court acknowledged the fiduciary breach but dismissed the COBRA claim because the loss of coverage was not caused by a COBRA triggering event.
- **PHSA Litigation**
 - In Sections III.B and XXV.K, we note a recent decision denying damages, fines, and attorney's fees in a case brought under the PHSA by a qualified beneficiary of a governmental health plan. The case highlights the PHSA's narrow enforcement provisions as compared to those under ERISA.

(over, please)

Filing Instructions for Outline:

Take Out & Toss	Insert These Pages	Take Out & Toss	Insert These Pages
Title Page, dated 2nd Qtr. 2021	Title Page, dated 3rd Qtr. 2021	Outline: pages 547-548	pages 547-548
Intro Pages/ Table of Contents: pages iii-xi	pages iii-xi	Outline: pages 551-552	pages 551-552
Outline: pages 63-64	pages 63-64	Outline: pages 565-566	pages 565-566
Outline: pages 103-104	pages 103-104	Outline: pages 833-834	pages 833-834
Outline: pages 154A-154H	pages 154A-154L	Outline: pages 841-844	pages 841-844
Outline: pages 159-160	pages 159-160	Outline: pages 860M-860N	pages 860M-860N
Outline: pages 187-188	pages 187-188	Outline: pages 860Q-860R	pages 860Q-860R
Outline: pages 195-196	pages 195-196	Outline: pages 945-946	pages 945-946
Outline: pages 353-354B	pages 353-354B	Index & Glossary Tab: pages 1-18	New Index & Glossary pages 1-18
Outline: pages 378A-378B	pages 378A-378B		

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