

# 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.

### **Subscription Information**

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:**

<b>Take Out &amp; Toss</b>	<b>Insert These Pages</b>	<b>Take Out &amp; Toss</b>	<b>Insert These Pages</b>
<b>Title Page</b> , dated 2nd Qtr. 2021	Title Page, dated 3rd Qtr. 2021	<b>Outline:</b> pages 547-548	pages 547-548
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<b>Outline:</b> pages 378A-378B	pages 378A-378B		

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