



Assumption of the Risk and Waiver of Liability Relating to Coronavirus/COVID-19

The novel coronavirus, COVID-19, has been declared a worldwide pandemic by the World Health Organization. **COVID-19 is extremely contagious** and is believed to spread mainly from person-to-person contact. As a result, federal, state, and local governments and federal and state health agencies recommend social distancing and have, in many locations, prohibited the congregation of groups of people.

Jewish Family & Career Services, Inc. (“JF&CS”), has put in place preventative measures to reduce the spread of COVID-19; however, JF&CS **cannot guarantee** that you or your child(ren) will not become infected with COVID-19. Further, attending in-person appointments with JF&CS **could increase** your risk and your child(ren)’s risk of contacting COVID-19.

By signing this agreement, I acknowledge the contagious nature of COVID-19 and voluntarily assume the risk that myself and/or my child(ren) may be exposed to or infected by COVID-19 by attending in-person appointments with JF&CS and that such exposure or infection may result in personal injury, illness, permanent disability, and death. I understand that the risk of becoming exposed to or infected by COVID-19 at JF&CS, or while working with JF&CS staff and/or volunteers may result from the actions, omissions, or negligence of myself and others, including, but not limited to JF&CS, their employees, volunteers, and other participants and their families.

I voluntarily agree to assume all of the foregoing risks and accept sole responsibility for any injury to myself and/or my child(ren) (including, but not limited to, personal injury, disability, and death), illness, damage, loss, claim, liability, or expense, of any kind, that I or my child(ren) may experience or incur in connection with my attendance or my child(ren)’s attendance at in-person appointments with JF&CS. On my behalf and/or on behalf of my child(ren), I hereby release, covenant not to sue, discharge, and hold harmless JF&CS, its employees, agents, and representatives of and from the claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. I understand and agree that this release includes any claims based on the actions, omissions, or negligence of JF&CS, its employees, agents, and representatives, whether a COVID-19 infection occurs before, during, or after participation

in any in-person appointments with JF&CS. I will report all unusual symptoms and especially those related to COVID-19 JF&CS staff.

Must initial to affirm vaccination and be permitted not to wear a mask (optional)

I have been completely vaccinated and may participate in JF&CS Programs and/or in-person sessions without a mask (if I choose) where permitted.

I have provided evidence of vaccination (COVID Vaccination card) to the JF&CS staff below. I also confirm that there are no medical conditions that would prevent me from safely participating in any JF&CS Programs and/or in-person sessions without a mask. I also understand I may still be required to wear a mask upon entering facilities and in common areas. _____ (*initial*)

Witness, JF&CS Staff member (name/signed) _____
Date

Name of Client _____
Print name of Signer (if parent/guardian)

Signature of client/parent/legal guardian _____
Date



COVID-19, Vaccination & a Return to a **New** Normal

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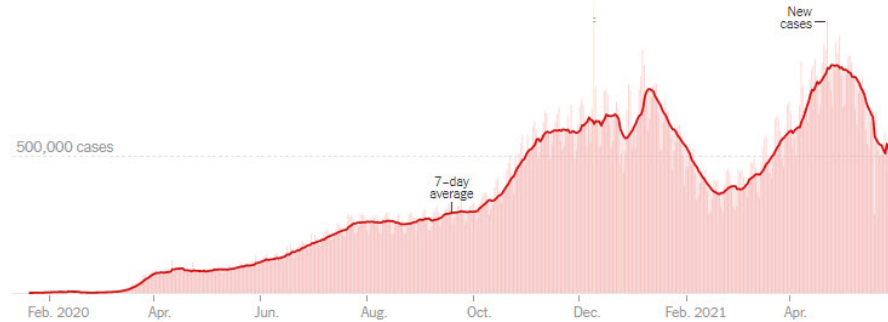
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Where We Are Today



- **World**
 - 172 Million cases
 - 3.6 Million deaths
- **USA**
 - 34 Million cases
 - >610,000 deaths

Global cases



Global deaths



Data updated May 26, 2021
<https://www.worldometers.info/coronavirus/>
<https://www.nytimes.com/interactive/2021/world/covid-cases.html>

Prevention: Bottom Line

**Multiple public health measures
layered together are needed to slow
this virus down**

Why Get Vaccinated?

Protect yourself:

- ✓ Vaccines **reduce the risk of infection** (asymptomatic & symptomatic)
- ✓ Vaccines **prevent hospitalization & death** from COVID-19

Protect others:

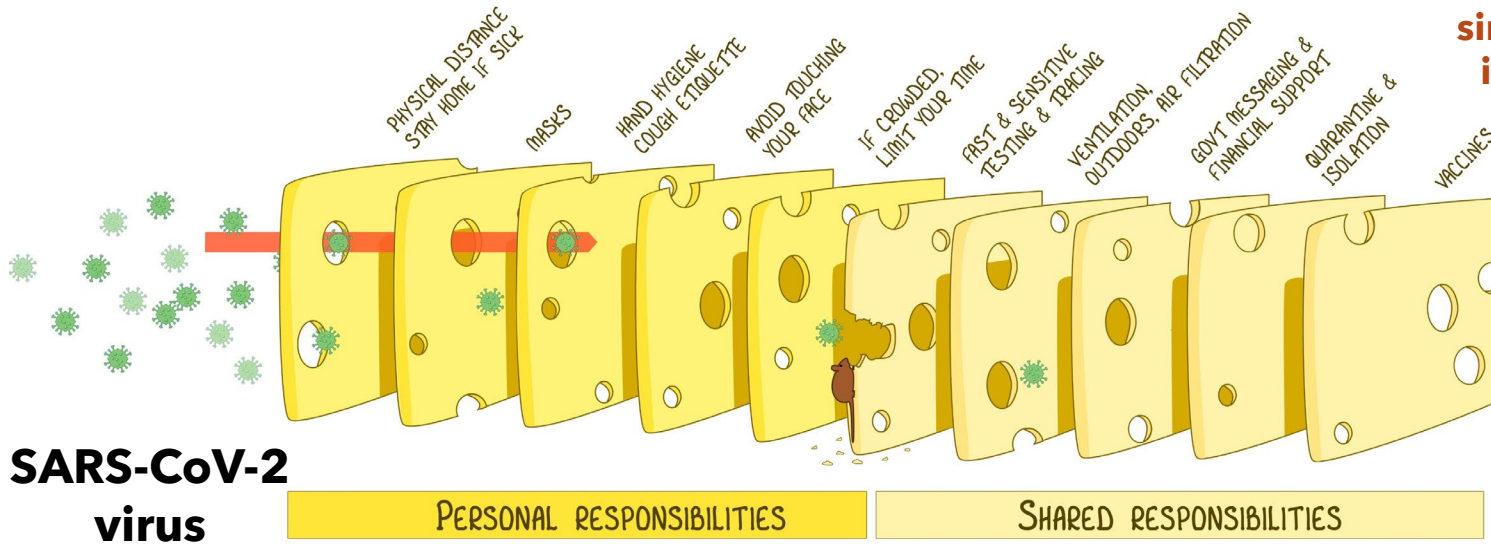
- ✓ Vaccines **reduce transmission**
- ✓ Vaccinated people **clear infection** more quickly & **shed less virus** than unvaccinated people

Tande AJ., et al. Clinical Infectious Diseases (2021); Thompson MG, et al. MMWR Morb Mortal Wkly Rep (2021); McEllistrem MC, et al. Clinical Infectious Diseases (2021); Levine-Tiefenbrun M, et al. Nature Medicine (2021); Emary KRW, et al. Lancet preprint (2021); Petter E, et al. medRxiv (2021); Harris RJ, et al. Preprint (2021)

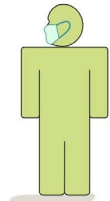
Prevention

The Swiss Cheese Respiratory Virus Defense

Recognizing that No Single Intervention is Perfect



**Vaccination is the
single most important
intervention we can
apply!!**



**You
or
me**

Each intervention (layer) has failings (holes)
Multiple layers reduce their impact

Evidence to Support the Swiss Cheese Model

Science

REPORTS

Cite as: J. Lessler *et al.*, *Science* 10.1126/science.abh2939 (2021).

Household COVID-19 risk and in-person schooling

Justin Lessler^{1*}, M. Kate Grabowski^{1,2}, Kyra H. Grantz¹, Elena Badillo-Goicoechea³, C. Jessica E. Metcalf⁴, Carly Lupton-Smith⁵, Andrew S. Azman^{1,6}, Elizabeth A. Stuart^{2,5,7}

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In-person schooling was proved contentious and difficult to study throughout the SARS-CoV-2 pandemic. This study indicates an increased risk of COVID-19 infections in households with children attending in-person school.



Home



School

Large study of >500,000 households examining relationships among in-person schooling, mitigation efforts & COVID-19 infections of adults at home

Do mitigation factors* reduce the risk of an adult at home getting COVID-19 if their kids attend in-person school?

*Things like mask wearing, spacing of desks, symptom screening, same/many teachers, outdoor instruction, reduced class size, closing cafeterias, etc.

Evidence to Support the Swiss Cheese Model

■ Results

- Living with a child doing in-person schooling increased the risk for an adult at home getting COVID-19 by about 30-40%
- Each separate mitigation factor reduced this risk by 5-10%
- Daily symptom screening, teacher mask mandate & cancelling extra-curricular activities assoc. with greatest risk reduction
- **When 7 or more mitigation measures were in place the association between in-person schooling & COVID-19 disappeared**

The Future

- **Global control** of COVID-19
- **Surveillance**: global, sequencing, data sharing
- **Testing**: cheap, available, frequent, self-administered
- **Treatment** : possibly closer to oral antivirals
- **Vaccines**: targeting variants; children; boosters
- **“Long COVID”**: better understanding/treatments/preventions
- Improve **public health** systems
- Improve **population health** to reduce inequities & disparities



JEWISH FAMILY & CAREER SERVICES

NJHSA Reopening Panel

Agency-Wide Phase Plan

All staff to wear masks, maintain hygiene and social distancing with few people in office at any given time. PPE must be worn in office at all times until advised otherwise.

Department	Phase 1 - Begins when GA has experienced 2 weeks of declining COVID cases [Active end of September 2020]	Phase 2- Effective contact tracing and easy access to tests	Phase 3- With vaccine, herd immunity, or effective and reliable COVID treatment
Aviv Older Adult Services	<ul style="list-style-type: none"> • Admin duties (2-3 days per week) that is difficult to do from a home office. • Make optional who works in the office based on risk factors (age, comorbidities, etc.) and who can do work from home as well as from the office. • Continue virtual sessions, groups, telephone reassurance. 	<ul style="list-style-type: none"> • Continue virtual sessions, groups, telephone reassurance. • Allow in person groups with non-vulnerable populations. • Allow more people to return to office. Not mandatory and with alternating schedule. Staff with shared office must not use at same time and shared offices must be cleaned more regularly and deeply. 	<ul style="list-style-type: none"> • Resume in person visits with PPE (when senior-living facilities open up their doors to visitors). • All staff may return to office (shared offices must alternate days). Remote work is allowed.
BMDC	<p>Dentists and existing clients return for ongoing care. Full PPE. Staggered appointments and staff.</p> <ul style="list-style-type: none"> • Patients: <ul style="list-style-type: none"> o Pre-visit reminders, adjusted check in, masks & hand hygiene, temp checks with questionnaire prior to seating • Increased disinfecting of physical space 	<p>Dentists and existing clients return for ongoing care. Full PPE. Staggered appointments and staff. Two groups of staff.</p> <ul style="list-style-type: none"> • Patients: <ul style="list-style-type: none"> o Pre-visit reminders, adjusted check in, masks & hand hygiene o Temp checks with questionnaire prior to seating • Increased disinfecting of physical space 	<ul style="list-style-type: none"> • Expand service to add new patients • Return of partners (vision & medical). • Add extended hours and weekends to diminish the backlog
Career Services	<ul style="list-style-type: none"> • Virtual LinkedIn and Resume/Cover Letters sessions • Virtual 1:1 Coaching and Job Search workshops 	<ul style="list-style-type: none"> • Half Day Boot Camp and LinkedIn in person and virtual (subject to change based on in person attendance) • Virtual and in-person (as necessary) 1:1 Coaching 	<ul style="list-style-type: none"> • Virtual and in-person 1:1 Coaching. • Virtual and in-person workshops
Exec Leadership	<ul style="list-style-type: none"> • Work from office in staggered shifts. • Maintain remote work. 	<ul style="list-style-type: none"> • Return to office in staggered shifts. • Allow remote work. 	<ul style="list-style-type: none"> • Return to office full time. • Allow remote work.



COVID In Office Protocols

Some Covid specifics from the Health & Safety Committee following CDC guidelines:

- Masks are required at all times in common spaces. These include entrances, hallways, break rooms, and restrooms.
- We have “I’ve been vaccinated” stickers to affix to your door nametag and badge if you choose to share that information
- The coffee machine, and water dispensers are turned on and you may use the kitchen
- Masks can be removed when in an enclosed office
- If people are in an office or conference room and all parties have been vaccinated, they may mutually agree to remove masks
- Outdoor JFCS gatherings will not require masks for those attendees who have been vaccinated
- Please refrain from stopping into Independence Works (day program for adults with intellectual and developmental disabilities without being pre-approved for a visit
- All clients must maintain mask wearing unless they have been vaccinated and have filled out a waiver sho

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I voluntarily agree to assume all of the foregoing risks and accept sole responsibility for any injury to myself and/or my child(ren) (including, but not limited to, personal injury, disability, and death), illness, damage, loss, claim, liability, or expense, of any kind, that I or my child(ren) may experience or incur in connection with my attendance or my child(ren)’s attendance at in-person appointments with JF&CS. On my behalf and/or on behalf of my child(ren), I hereby release, covenant not to sue, discharge, and hold harmless JF&CS, its employees, agents, and representatives of and from the claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. I understand and agree that this release includes any claims based on the actions, omissions, or negligence of JF&CS, its employees, agents, and representatives, whether a COVID-19 infection occurs before, during, or after participation in any in-person appointments with JF&CS.

- Individual, _____ has been completely vaccinated and may participate in any JF&CS Programs and/or in-person sessions (if they so choose) without a mask. I will also provide evidence of vaccination (COVID Vaccination card) to JF&CS staff.
- I confirm that there are no medical conditions that would prevent _____ from safely participating in any JF&CS Programs and/or in-person sessions without a mask.
- I will report all unusual symptoms and especially those related to COVID-19 JF&CS staff.

Name of Client

Print name of Signer

Signature of client/parent/legal guardian

Date

Witness

Date

Legal Considerations for Providers: COVID-19 Testing and Vaccination

Ross Margulies
Partner
Foley Hoag LLP

Providers are permitted to take precautions

- Appropriate – and legal – precautions include (but are not limited to):
 - Mandatory masking
 - Temperature checks
 - Symptom checks
 - Collection of vaccine status
 - Rapid testing

- **Best practice:** provide a reasonable rationale for all precautions.
 - E.g. We ask that you wear a mask because there are people in our office who may not be vaccinated and we are trying to protect them.

- HIPAA governs the use and disclosure of protected health information – which could include an individual’s vaccination status.

- **However:**
 - HIPAA only applies to “covered entities” including health plans, health care clearinghouses, and healthcare providers. **It does not apply to employers acting as employers.**
 - Even if HIPAA applies, there may be an exception:
 - Where information is shared/volunteered by the patient
 - Where a patient authorizes the information be shared
 - Where such information is necessary to treat the patient or to treat a different patient
 - For disclosure to public health authorities
 - To family, friends, or others involved in an individual’s care

✓ **HIPAA generally does not apply to and/or restrict:**

- Vaccination status shared by patient
- Sharing of vaccine status for “public health activities”
- Sharing of vaccine status with other covered entities or business associates for treatment, payment, or healthcare operations

✗ **Precautions:**

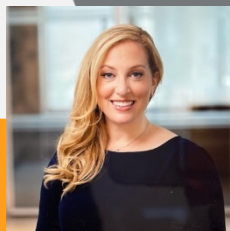
- Assume all information, even if HIPAA exempt, is still confidential (**state laws** could apply)
- Patient authorization would be needed to share vaccination status with a third party in most instances (for example, patient’s employer)
- Consider other Federal laws, including the ADA when making decisions

PRESENTATION TO JFNA

JEWISH TOGETHER: REOPENING CONSIDERATIONS

June 1, 2021

Welcome + Introduction



Jessica Golden Cortes

Partner, Labor + Employment Practice Group

Davis+Gilbert LLP

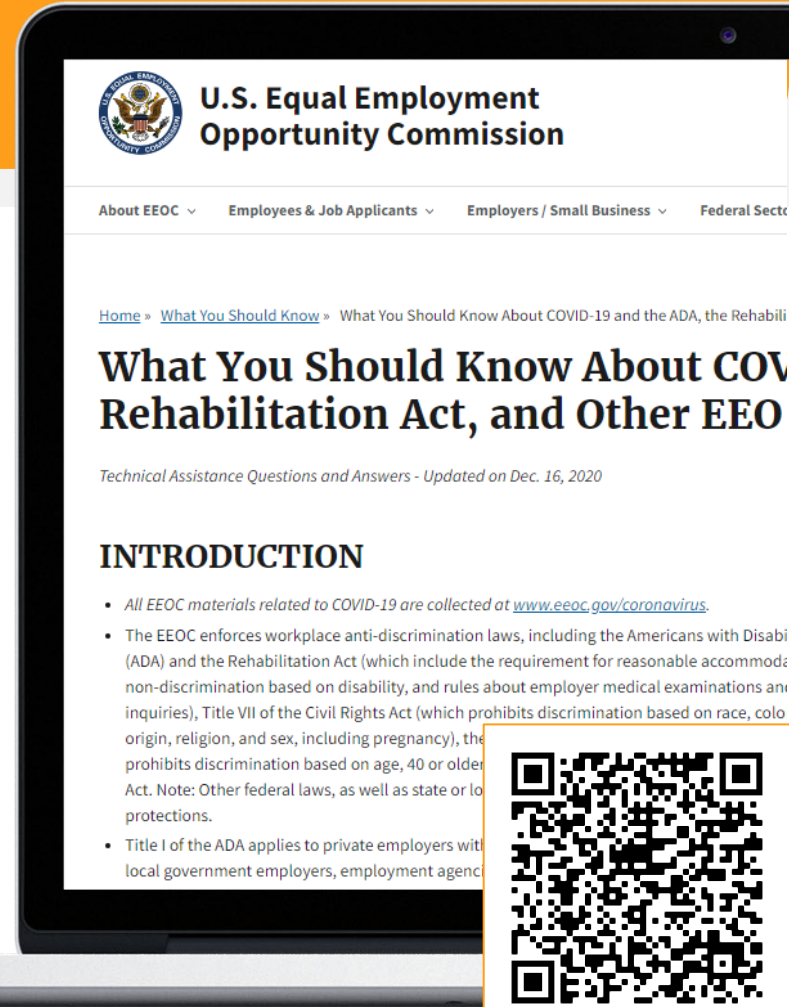
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VACCINE MANDATES AND RELATED ISSUES

- In December 2020, the EEOC issued guidance discussing the potential legal issues surrounding the COVID-19 vaccine – Updated May 28, 2021
 - <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>
 - This addresses federal laws – be mindful of state and local guidance



CAN EMPLOYERS REQUIRE EMPLOYEES TO BE VACCINATED? GENERALLY YES

- The federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19
 - Subject to reasonable accommodations for religion and disability
 - Subject to disparate impact analysis
- Under certain circumstances employers may offer incentives to employees who receive COVID-19 vaccines:
 - *If* not so substantial as to be coercive; and
 - Employees voluntarily share documentation of vaccination
- Information about an employee's COVID-19 vaccination is considered confidential medical information under the ADA
 - Keep confidential and store separately

WHETHER TO HAVE MANDATORY VACCINE POLICY

- **Prevailing View:** to “strongly encourage” rather than “mandate” in typical *office* setting
 - Morale
 - Avoid ADA risks
 - Avoid discrimination risks
- **Consider:**
 - Frequency of third party interactions
 - Type of job/exposure



VACCINATION PROOF

- Requesting proof of receipt of a COVID-19 vaccination generally ok
 - not likely to elicit information about a disability and, therefore, not considered a disability-related inquiry that would be prohibited by ADA
- **BUT** subsequent employer questions, such as asking **why** an individual did not receive a vaccination, may elicit information about a disability and needs to be “**job-related and consistent with business necessity**”
 - same standard applies to conducting COVID-19 test at work or as prerequisite to return to work)
- If employer requires employees to provide proof of COVID-19 vaccination from a pharmacy or their own health care provider, tell employees not to provide any medical information as part of the proof in order to avoid implicating the ADA

PAID TIME OFF FOR VACCINATION

- Families First Coronavirus Response Act – Voluntary Extension to September 2021
 - Employers are not obligated to comply, but get tax credits for doing so
 - Valid reasons to take leave expanded to include getting vaccinated/recovering from vaccine
 - Replenishes sick leave banks
 - Employees can take EFMLA for EPSL reasons (not just childcare due to school closure)
 - EFMLA payable for full 12 weeks (not 10)
- Several states like New York, California and Illinois have VPTO laws as well, requiring paid time off to get vaccinated separate and apart from paid sick time and general paid time off.

THE PANDEMIC AND ADA REQUIREMENTS

- **Americans with Disabilities Act (15+ employees)**
- Pandemic Preparedness in the Workplace Guidance Highlights:
https://www.eeoc.gov/sites/default/files/2020-04/pandemic_flu.pdf
 - Health questions employers are permitted to ask during pandemic – including if employees have been diagnosed with or tested positive for COVID-19 or have been in contact with others who have
 - ADA permits employer to require symptomatic employees to leave the workplace
 - ADA permits employers to require COVID-19 testing before permitting entry to workplace and periodically thereafter
 - Employer may deny entry to employee refusing to answer COVID-19 questions

COVID-19 and the Americans with Disabilities Act (15+ employees)

- Employer may screen candidates for employment for COVID-19 symptoms
- Employer may withdraw offer if job start is time-sensitive and individual cannot start due to COVID-19 illness/exposure
- Employer may not postpone or withdraw offer to high risk candidate (over 65 or pregnant)
- Employer may not require antibody tests as prerequisite to workplace entry per CDC guidelines – ADA medical examination
- Continued remote work may be a reasonable accommodation
- Accommodate mental health issues exacerbated by COVID-19
- Employers still required to engage in interactive process even during remote work



- CDC Guidance for Fully Vaccinated (non-healthcare):
<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>
- Fully vaccinated people can, among other things:
 - Resume activities ***without wearing masks or physically distancing***, except where required by federal, state, local, tribal, or territorial laws, rules and regulations, ***including local business and workplace guidance***
 - Employers permitted to create own protocols
- Employers are permitted to have differing policies for vaccinated and unvaccinated employees



AMERICAN RESCUE PLAN
ACT OF 2021



ARPA Impact on COBRA

The American Rescue Plan Act of 2021 COBRA Subsidy

- President Biden signed the American Rescue Plan Act of 2021 (ARPA) into law on March 11, 2021. In addition to direct payments to certain taxpayers and extending unemployment benefits, **ARPA also provides for the federal government to pay 100% of the cost of COBRA premiums for the period beginning April 1 through September 30 (the “subsidy period”)**
- The federal government will pay for the COBRA subsidies by providing certain tax credits
 - For most single employer plans, the employer will be eligible to take the credit
 - For fully-insured medical plans that are **not** subject to federal COBRA requirements, the credit will be taken by the insurer

COBRA Subsidy under APRA Eligible Individuals

- To be eligible for the subsidy, an individual must be eligible for COBRA as a result of an **involuntary termination** of employment (except for termination for gross misconduct) or reduction of hours, and the individual's maximum COBRA coverage period falls within the subsidy period
- The COBRA subsidy is generally **not available** to individuals who are eligible for coverage under:
 - Another group health plan
 - Medicare
- Ineligible individuals who claim a subsidy will be subject to a penalty

COBRA Subsidy under APRA Special Enrollment Period

- ARPA also provides an **extended COBRA election period** for individuals who are still within their COBRA maximum coverage period (generally, 18 months) **and**:
 - Were eligible for COBRA continuation coverage during the subsidy period but did not initially enroll, **or**
 - Elected COBRA continuation coverage that was discontinued before the subsidy period

Note: ARPA does **not** extend the maximum COBRA coverage period available to an individual

COBRA SUBSIDY UNDER APRA Notice Requirements

- Notice of COBRA subsidy
 - COBRA election notice sent to qualifying individuals must now include information regarding the COBRA subsidy
 - If an individual became entitled to COBRA continuation coverage before the start of the subsidy period, the plan administrator must provide a new notice containing information about the subsidy within 60 days after the start of the subsidy period
- Notice of expiration of the COBRA subsidy must be provided between 15 and 45 days before the COBRA subsidy is set to expire
- The DOL issued model notices that can be used
- **Next Steps:** Reach out to your COBRA administrators to confirm that they updated their procedures to comply with the requirements under ARPA

ADDITIONAL RESOURCES

CDC

<https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/index.html>

<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>

EEOC

<https://www.eeoc.gov/newsroom/eeoc-examines-connections-between-covid-19-and-civil-rights>

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

OSHA

<https://www.osha.gov/coronavirus/safework>

<https://www.osha.gov/coronavirus/guidance/industry>

<https://www.osha.gov/coronavirus/faqs>

Questions?

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