

**Congress of the United States**  
**Washington, DC 20515**

March 31, 2021

The Honorable Janet Yellen  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Ave, NW  
Washington, D.C. 20224

Dear Secretary Yellen and Commissioner Rettig:

As you know, the American Rescue Plan provides payroll tax credits to reimburse employers for 100% of the cost of COBRA coverage for workers who are involuntarily terminated or had a reduction of hours that caused them to lose their employer sponsored health insurance. We write today to request that any guidance you issue to implement this policy will clarify that workers who are exercising their right to strike under the National Labor Relations Act and whose employers terminate their health coverage as a result of that action, are covered by the COBRA subsidies provided by the American Rescue Plan Act.

Although the American Rescue Plan Act does not address the issue of striking workers, we believe it is necessary that any guidance issued regarding eligibility of workers to receive subsidized COBRA coverage explicitly clarify that these workers are eligible in order to ensure that striking workers are not unintentionally harmed. In 2009, the last time Congress provided a payroll tax credit to partially cover the cost of COBRA coverage, your agencies determined that striking workers whose employers terminated their employer sponsored health coverage and were eligible for continued coverage under COBRA were not eligible for the temporary subsidies. As a result, some of our constituents were left to pay the extremely high costs of COBRA out of pocket or lose their providers. In some instances, these workers became disconnected from their providers during expensive and complicated treatments.

Although the previous guidance under the American Recovery and Reinvestment Act of 2009 (ARRA) provided that striking workers were ineligible for subsidies, it is important to note that the text of the American Rescue Plan differs from ARRA and clearly extends the COBRA subsidies to a broader cohort of affected employees than in 2009. The American Rescue Plan Act only excludes employees in cases of “voluntary termination of such individual’s employment by such individual”, which does not apply to striking workers, and therefore should not preclude these individuals and their families from eligibility. Please be advised that this issue has real time consequences. Currently, hundreds of striking workers in our region have had their health benefits terminated by their employer and are eligible for COBRA. We believe it is the intent of the American Rescue Plan Act to ensure these workers are eligible for the subsidies the bill provides.

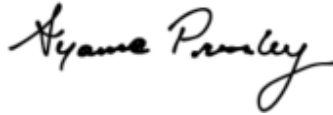
We urge your forthcoming guidance to employers and employees to clarify this point so that workers taking federally-recognized collective action to improve the terms and conditions of their employment, and whose employers have terminated their health benefits as a result, are not left behind.

Thank you for your attention to this matter, and for your work implementing the American Rescue Plan.

Sincerely,



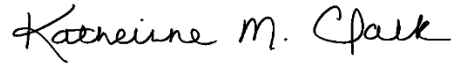
Joe Courtney  
Member of Congress



Ayanna Pressley  
Member of Congress



James P. McGovern  
Member of Congress



Katherine Clark  
Member of Congress

cc: Secretary of Labor Marty Walsh