



DOL and IRS Extend Certain Deadlines for Welfare Plans and Participants

The DOL and IRS have issued COVID-19 related guidance that temporarily extends certain deadlines applicable to welfare plans and their participants and beneficiaries.

COVID-19 Related Guidance

In April 2020, the DOL issued EBSA Disaster Relief Notice 2020-01, and the DOL and IRS (collectively, the "Agencies") jointly issued final regulations providing temporary extensions of certain deadlines applicable to health plans and their participants and beneficiaries.

These temporary deadline extensions, which became effective March 1, 2020, will continue until 60 days after the announcement of the end of the COVID-19 National Emergency, or such other date announced by the Agencies (i.e., the "Outbreak Period"):

Extended Deadlines Applicable to Welfare Plan Participants and Beneficiaries

- *Claims and Appeals:* The final regulations extend the deadline to file a claim or appeal in connection with an adverse benefit determination during the Outbreak Period. This extension applies to claims and appeals due on or after March 1, 2020, and suspends the applicable timelines for claims and appeals currently pending during the Outbreak Period.
- *HIPAA Special Enrollment:* Under HIPAA, an individual generally has 30 days (60 days in certain cases, however) to request enrollment information in a group health plan following the occurrence of a HIPAA special enrollment event (g., birth of a child, marriage, loss of other coverage). The final regulations require plans to disregard the Outbreak Period when determining the deadline by which an individual must request a HIPAA special enrollment.
- *Notice to the Plan of COBRA Qualifying Event or Disability:* The final regulations require plans to disregard the Outbreak Period when determining the 60-day deadline for individuals to notify the plan of a COBRA-qualifying event (g., divorce, legal separation, a child's loss of dependent status under the plan, or a disability determination by SSA).

NOTE: The deadline for employers to notify the plan of a qualifying event remains unchanged.

- *COBRA Election Period:* The final regulations require plans to disregard the Outbreak Period when determining the 60-day deadline for individuals to elect COBRA continuation coverage as a result of experiencing a qualifying event.
- *COBRA Premium Payments:* COBRA requires an individual who enrolls in COBRA continuation coverage to make the initial premium payment required for the coverage within 45 days after the election, and plans must provide a grace period of at least 30 days for subsequent premium payments. The final regulations require plans to disregard the Outbreak Period when determining the deadline to submit COBRA premium payments.
- *External Review:* For non-grandfathered plans, the final regulations require plans to disregard the Outbreak Period when determining the deadline for participants to file a request for external review after receiving an adverse benefit determination, or to submit information to perfect a request for external review during the Outbreak Period.

Extended Deadline Applicable to Welfare Plans

- *Disclosures/Documents Required by Title I of ERISA:* Notice 2020-01 extends the deadline for plans to timely provide participants and dependents with any notices, disclosures, or documents required under Title I of ERISA (g., SPDs, Summary Annual Reports) that are due to be furnished during the Outbreak Period. Plans must make a good faith effort to provide these documents as soon as administratively possible.
- *Extended Deadline for Employers to Submit Participant Contributions:* Notice 2020-01 provides that the DOL will not take enforcement action against employers and services providers if they fail to timely remit participant contributions during the Outbreak Period.

NOTE: For group health plans, participant contributions must be submitted no later than 90 days from the date on which participant contributions are received by the employer or the date on which such amounts would otherwise be payable to the employee in cash.

- *Form 5500 and Form M-1 Filings:* Notice 2020-01 confirms prior IRS guidance that extends the deadline to file a Form 5500 to July 15, 2020, for filings due on or after April 1, 2020 and before July 15, 2020. Form M-1 filings, which are required for Multiple Employer Welfare Arrangements ("MEWAs") are afforded relief for the same period as the Form 5500 relief.

NOTE: There is currently no COVID-19 related relief for calendar year plans that have a Form 5500 filing due date of July 31, 2020.

- *COBRA Election Notices:* The final regulations provide that plans do not have to send a COBRA Election Notice during the Outbreak Period.

NOTE: Group health plans must normally notify qualified beneficiaries of their right to elect COBRA continuation coverage within 14 days of receiving notice of the occurrence of a qualifying event.

EBSA Disaster Relief Notice 2020-01 is available for review at: <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/disaster-relief/ebsa-disaster-relief-notice-2020-01>

The final regulations are available for review at: <https://www.govinfo.gov/content/pkg/FR-2020-05-04/pdf/2020-09399.pdf>

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