

Department of Labor (DOL) Issues COVID-19 Relief

On April 28, 2020, the Department of Labor (DOL) Employee Benefits Security Administration (EBSA) announced compliance guidance and further relief for employee benefit plans, qualified beneficiaries, and other plan members impacted by the ongoing coronavirus (COVID-19) outbreak.¹

Under new guidance jointly released by the DOL and the Internal Revenue Service (collectively, “the Agencies”)², the time periods in which participants can submit claims for coverage, elect and pay for COBRA continuation coverage, enroll in group health plan coverage, and file appeals for adverse benefit determinations are extended. The EBSA also provided guidance allowing additional time in which a group health plan sponsor or plan administrator can provide certain notices, disclosures, or other documents.³

Specifically, the guidance provides that the “Outbreak Period” (defined as the period beginning March 1, 2020 and ending 60 days after the date on which the federal government declares the COVID-19 national emergency has ended, which has yet to be determined) will be disregarded with respect to certain plan deadlines.

While there has yet to be any end date to the national emergency period announced, it uses – for purposes of illustration – an assumed national emergency period of March 1, 2020 through April 30, 2020, with the Outbreak Period ending June 29, 2020 (i.e., 60 days following the national emergency end date contemplated in the guidance).

This extension relief provides additional time for impacted participants and beneficiaries when calculating:

- the date by which members may file claims for benefits under the plan’s generally applicable claims procedures (essentially extending the run-out period for reimbursement by health plans, healthcare flexible spending accounts (FSAs) or health reimbursement arrangements (HRAs) until the end of the COVID-19 outbreak);
- the 60-day election period for electing COBRA coverage;
- the date by which COBRA premium payments must be made;
- the 30-day period to exercise special enrollment rights under HIPAA (or the 60-day period, in the case of the special enrollment rights added by the Children’s Health Insurance Program Reauthorization Act of 2009) for major medical plans and other non-excepted benefits (e.g., following the addition of a spouse through marriage or the addition of a child through birth, adoption, or placement for adoption);

1. <https://www.dol.gov/newsroom/releases/ebsa/ebsa20200428>

2. <https://www.dol.gov/sites/dolgov/files/ebsa/temporary-postings/covid-19-final-rule.pdf>

3. <https://www.dol.gov/newsroom/releases/ebsa/ebsa20200428>

- the date by which an individual must notify the plan of a qualifying event (e.g., a divorce or legal separation) or a Social Security disability determination; and
- the date by which claimants may file an appeal of adverse benefits determinations or request external review after receipt of an adverse benefit determination or a final internal adverse benefit determination.

This guidance includes several helpful examples to illustrate the application of this timeline extension with respect to the plan deadlines listed above. It is noteworthy, however, that this relief does not seem to allow changes or revocations to cafeteria plan salary reductions (e.g., an election of pre-tax contributions under a healthcare FSA). Additional guidance or clarification from the Agencies is welcome.

The DOL also published FAQs for plan participants and beneficiaries⁴ to address directly many of the concerns undoubtedly facing those affected by COVID-19. These FAQs include options available to those who have – or may soon – lose their employment-based health coverage due to the outbreak (e.g., special enrollment under a spouse’s employer health plan, COBRA continuation coverage, enrollment in a Health Insurance Marketplace plan), what to do if an employer did not pay the insurance premium for its group coverage, the potential termination or amendment of retiree coverage, and clarification of notification timeline relief.

The Department of Health and Human Services (HHS) Centers for Medicare and Medicaid Services (CMS) also published documentation to assist employers – and their employees – with understanding their coverage options in the Health Insurance Marketplace. Please see the CMS [Tip Sheet on Health Coverage Option for Employers Helping their Employees During the COVID-19 National Emergency](#) and [Marketplace Information for Businesses Impacted by COVID-19](#) for more information.

The Agencies will continue to monitor the effects of the outbreak and may provide additional relief “as warranted.”

Current guidance does not impose specific notice requirements (e.g., furnishing a dedicated notice to plan participants advising of timeline extensions). It is recognized that there are many logistical considerations and ambiguities with respect to good-faith application of this guidance.

HealthEquity will continue to stay abreast of this topic and, as additional guidance is available, will advise accordingly.

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4. <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/covid-19.pdf>