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On November 7, 2024, 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 Hurricanes Helene and Milton.<sup>1</sup>

Under guidance jointly released by the DOL, Department of the Treasury and the Internal Revenue Service (collectively, the “Agencies”)<sup>2</sup>, the time periods in which such individuals impacted by these disasters can enroll in group health plan coverage, elect and pay for COBRA continuation coverage, submit claims for coverage and file appeals for adverse benefit determinations are extended. The Agencies also provided guidance allowing additional time in which group health plans subject to ERISA or the Internal Revenue Code (the “Code”), and their sponsors and administrators affected<sup>3</sup> by Hurricane Helene, Tropical Storm Helene, or Hurricane Milton can provide COBRA Election Notices under ERISA § 606(c) and Code § 4980B(f)(6)(D).

Specifically, the guidance provides that such group health plans, disability and other employee welfare benefit plans, and employee pension benefit plans subject to ERISA or the Code must disregard the applicable “Relief Period” (see below) for plan participants, beneficiaries, qualified beneficiaries, or claimants located in Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia with respect to certain plan deadlines.

## “Relief Period” Defined

- For disaster areas in Florida<sup>4</sup> designated by the Federal Emergency Management Agency (FEMA) as eligible for Individual Assistance because of Hurricane Helene, the period beginning on September 23, 2024, and ending on May 1, 2025;
- For disaster areas in Georgia<sup>5</sup> designated by FEMA as eligible for Individual Assistance because of Hurricane Helene, the period beginning on September 24, 2024, and ending on May 1, 2025;
- For disaster areas in North Carolina,<sup>6</sup> South Carolina,<sup>7</sup> and Virginia<sup>8</sup> designated by FEMA as eligible for Individual Assistance because of Hurricane Helene or Tropical Storm Helene, the period beginning on September 25, 2024, and ending on May 1, 2025;
- For disaster areas in Tennessee<sup>9</sup> designated by FEMA as eligible for Individual Assistance because of Tropical Storm Helene, the period beginning on September 26, 2024, and ending on May 1, 2025; and
- For disaster areas in Florida<sup>10</sup> designated by FEMA as eligible for Individual Assistance because of Hurricane Milton, the period beginning October 5, 2024 and ending on May 1, 2025.

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

- 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.,

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<sup>1</sup> [US Department of Labor announces guidance, relief for employee benefit plans, participants, beneficiaries affected by hurricanes Helene, Milton | U.S. Department of Labor](#)

<sup>2</sup> [Federal Register :: Extension of Certain Timeframes for Employee Benefit Plans, Participants, Beneficiaries, Qualified Beneficiaries, and Claimants Affected by Hurricane Helene, Tropical Storm Helene, or Hurricane Milton](#)

<sup>3</sup> Generally, if the principal place of business of the employer that maintains the plan, the principal place of business of employers that employ more than 50 percent of the active participants covered by the plan, or the office of the plan or the plan administrator, or the office of the primary recordkeeper serving the plan, was located in one of the disaster areas at the time of the hurricane or tropical storm.

<sup>4</sup> <https://www.fema.gov/disaster/4828/designated-areas#individual-assistance>

<sup>5</sup> <https://www.fema.gov/disaster/4830/designated-areas#individual-assistance>

<sup>6</sup> <https://www.fema.gov/disaster/4827/designated-areas#individual-assistance>

<sup>7</sup> <https://www.fema.gov/disaster/4829/designated-areas#individual-assistance>

<sup>8</sup> <https://www.fema.gov/disaster/4831/designated-areas#individual-assistance>

<sup>9</sup> <https://www.fema.gov/disaster/4832/designated-areas#individual-assistance>

<sup>10</sup> <https://www.fema.gov/disaster/4834/designated-areas#individual-assistance>

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following the addition of a spouse through marriage or the addition of a child through birth, adoption, or placement for adoption);

- the 60-day election period for electing COBRA coverage;
- the date by which COBRA premium payments must be made;
- 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;
- 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, health Flexible Spending Accounts [health FSA] or Health Reimbursement Arrangements until the end of the applicable Relief Period); 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 health FSA). Additional guidance or clarification from the Agencies is welcome.

The DOL also published guidance in the form of Frequently Asked Questions<sup>11</sup> for plan participants and beneficiaries to address many of the concerns of those affected by Hurricanes Helene and Milton. These FAQs include options available to those who have – or may soon – lose their employment-based health coverage because of a weather-related disaster (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's place of business is temporarily closed because of a weather-related disaster, whom to contact to file a claim for retirement benefits, and clarification of notification timeline relief.

The Agencies will continue to monitor the impact of the weather-related disasters 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, we will advise accordingly.

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*The preceding general summary is intended to educate employers and plan sponsors on the potential effects of government guidance on employee benefit plans. This summary is not and should not be construed as legal or tax advice. As always, we strongly encourage employers and plan sponsors to consult competent legal or benefits counsel for all guidance on how the actions apply in their specific circumstances.*

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<sup>11</sup> [FAQs for Participants and Beneficiaries](#)