

Benefits BULLETIN



Modifications Announced to COVID-19 Relief for Group Health Plan Deadline Extensions

● March 1, 2021 ●

As previously detailed in our [Benefits Bulletin](#) in Spring 2020, the Department of Labor (DOL) and the Internal Revenue Service (IRS) issued mandatory guidelines aimed at providing extended deadline relief for group health plans subject to the Employee Retirement Income Securities Act of 1974 (ERISA) and the Internal Revenue Code (IRC). In general, this relief began on March 1, 2020 and was set to expire 60 days after the end of the COVID-19 national emergency (referred to as the "Outbreak Period"). Deadlines under COBRA and HIPAA, as well as deadlines applicable to the submission of claims and appeals, were affected.

While the Outbreak Period is ongoing, the DOL's and IRS's authority to issue and enforce this relief pursuant to ERISA and the IRC is limited to one year. With this one-year period expiring on February 28, 2021, it was uncertain if the relief, too, would expire or whether the agencies would take action to provide continued relief for a longer period. On February 26, the DOL issued [EBSA Disaster Relief Notice 2021-01](#) ("Notice"), answering this question.

In this Notice, the DOL explains that the one-year tolling period will now be applied on a **rolling individual-by individual basis**. Deadlines will be tolled until the earlier of: (i) one year from the date the individual was first eligible for relief; or (ii) 60 days after the announced end of the Outbreak Period (which, as of now, will last until at least April 20, 2021). As such, any participant or beneficiary who had a deadline that, absent relief, would have expired on or after March 1, 2020 will have exactly one year to comply with deadlines outlined in previous relief, subject to the end of the Outbreak Period.

Examples

The Notice gives the following examples of how this relief applies:

- If a qualified beneficiary would have been required to make a COBRA election by March 1, 2020, their deadline to make the election would have been February 28, 2021, which is the earlier of 1 year from March 1, 2020 or the end of the Outbreak Period (which is still ongoing).
- If a qualified beneficiary is required to make a COBRA election by March 1, 2021, their election requirement would be delayed until the earlier of 1 year from that date (i.e., March 1, 2022) or 60 days after the end of the Outbreak Period. If the Outbreak Period ended on April 20, 2021, for example, they would have 60 days after April 20, 2021 to make an election.

Employer Next Steps

In the original relief notice issued by the DOL in Spring 2020, there was no explicit requirement that employer-sponsors provide any sort of notice to plan participants and beneficiaries regarding these extensions. In this Notice, the DOL again has not provided any mandatory action regarding notices to plan participants and beneficiaries. Rather, the DOL has suggested certain actions employer-sponsors should consider regarding employee communication of these extensions, as detailed below.

- On an individual basis, if an employer-sponsor knows, or should reasonably know, that an individual's relief period is ending and may cause that individual to lose some benefit or protection under the plan, the employer-sponsor should consider affirmatively sending a notice regarding the end of the relief period.
- Employer-sponsors should review any notices or amendments issued prior to or during the pandemic and amend or redistribute such notices, if information requires updating for accuracy.
- If participants or beneficiaries are losing coverage under the group health plan, the employer-sponsor should inform these individuals of other coverage options that may be available to them, including the opportunity to obtain coverage through the Health Insurance Marketplace in their state (i.e., certain states have special enrollment periods now available to them).

The DOL's overarching guidance urges employer-sponsors to "act reasonably, prudently, and in the interest of the workers and their families who rely on their health, retirement, and other employee benefit plans for their physical and economic well-being." Therefore, employer-sponsors should apply a reasonable and consistent approach in the administration of this continued relief, and provide employees with the reasonable opportunity to maintain coverage under the group health plan. To this end, employer-sponsors should continue to work proactively with insurers, COBRA TPAs, and claims administrators to ensure a coordinated strategy.

ADDITIONAL RESOURCES

[EBSA Disaster Relief Notice 2021-01](#)

[Benefits Bulletin, April 30, 2020](#)