

On April 29, the Departments of Labor and the Treasury provided relief to individuals affected by COVID-19 who may be unable to satisfy certain deadlines that impact their rights and responsibilities under various employee benefit plans.

The relief provides that an “Outbreak Period” is ignored in determining the deadline for participants to elect special enrollment in a health plan, elect or pay for COBRA coverage, or file or appeal a benefit plan claim. The Outbreak Period is specified as the period from March 1, 2020 until 60 days after the announced end of the COVID-19 National Emergency.

For the purposes of our examples below, we will assume the COVID-19 National Emergency will end on May 31, 2020, with the Outbreak Period ending July 30, 2020.



EXTENSION OF DEADLINES

The relief extends the deadlines for the following:

- The 30-day or 60-day period, as applicable, for requesting HIPAA special enrollment in a group health plan
- The 60-day period to elect COBRA
- The date for making COBRA premium payments
- The date for an individual to notify the plan of a qualifying event or disability determination
- The date by which an individual may file a benefit claim
- The date by which a claimant may file an appeal of an adverse benefit determination
- The date by which a claimant may file a request for an external review after receiving an adverse benefit determination or final internal adverse benefit determination of a claim
- The date by which a claimant may file information to perfect a request for external review upon a finding that the request was not complete

If the triggering event occurs **DURING** the Outbreak Period, the timeline for taking action doesn't begin until **AFTER** the Outbreak Period ends.

For example, an employee who previously declined group health coverage and gave birth on April 15, 2020 would have until August 29, 2020 (30 days after the end of the assumed Outbreak Period) in which to request special enrollment for herself and her child.

Similarly, if an individual experiences a qualifying event and receives a COBRA Election Notice on April 1, 2020, the 60-day period for electing COBRA coverage would not end until September 28, 2020 (60 days after the end of the assumed Outbreak Period).

If the timeline for taking action occurred **BEFORE** the Outbreak Period began (March 1, 2020), the entire Outbreak Period is ignored in determining the deadline date.

For example, an individual who experienced a qualifying event and received a COBRA Election Notice on February 10, 2020 would have until September 9, 2020 to elect COBRA coverage, 41 days after the Outbreak Period ends (60 days less the 19 days between February 10 and March 1).

Similarly, if an individual participates in a calendar-year Health Flexible Spending Account (FSA) or Health Reimbursement Arrangement (HRA) that requires claims to be submitted 90 days after the plan year end (typically on March 31), the deadline to submit would now be August 30, 2020, 31 days after the end of the Outbreak Period (90 days less the 59 days between January 1 and February 29).

An employee or qualified beneficiary may be required to pay for any coverage that first becomes effective or is continued during the Outbreak Period.

For example, if a qualified beneficiary began COBRA coverage in January 2020 and made a timely payment for coverage through February, they would have until August 29, 2020 (30 days after the assumed Outbreak Period ends) to make timely payments for March, April, May, June, and July.

Any payments received would be credited to premiums due for the earliest period of coverage. If only two months of premiums are received by August 29, 2020, the qualified beneficiary would only have coverage for March and April.