

National Emergency Deadline Extensions

Examples of the extended timeframes due to the COVID-19 National Emergency

As a reminder the examples below assume a national emergency end date of June 1, 2020. Once the national emergency end date is announced we expect the DOL and IRS to issue guidance with respect to the official Outbreak Period dates.

HIPAA Special Enrollment Rights:

Employees have 30 days to request a change in enrollment if they or a dependent lose eligibility for other group health coverage or if the employee acquires a new spouse or dependent by marriage, birth, adoption, or placement for adoption. Employees have 60 days to request a change in enrollment if they or a dependent gain or lose Medicaid or CHIP eligibility. If the request is made outside of that time frame, it is generally not allowed.

This new guidance suspends these timeframes. If an employee experiences one of the situations listed below anytime between March 1, 2020, and the end of the Outbreak Period, the timeframe to complete the requested change in coverage would not begin until the end of the Outbreak Period. This timeframe applies even if it is more than 30-60 days from the date of event.

Example: An employee has a baby on April 5, 2020. Traditionally the employee would have 30 days from this date to enroll the baby (and herself if not already enrolled) in the benefit plan.

Now the employee would have 30 days until after the end of the Outbreak Period to enroll in coverage making the new deadline August 30, 2020. If the employee did not enroll by August 30, 2020 she would need to wait until Open Enrollment.

Note: this timeframe extension only applies to situations classified as HIPAA Special Enrollments. All other qualifying life event situations retain their existing 30-60-day timeframe from date of event.

COBRA (only applies to group health plans subject to COBRA):

1. COBRA Notice from Employee to Employer

An employee or dependent is responsible for notifying the plan within 60 days of a divorce or legal separation causing the spouse to lose eligibility, or a child losing eligible dependent status (usually due to attaining age 26). Additionally, an individual already on COBRA must notify the plan within 60 days of a disability determination in order to extend the maximum coverage period from 18 to 29 months. This notification period will begin 60 days after the end of the Outbreak Period.

Example: A child loses dependent status on April 1, 2020 due to attaining age 26. Typically, the dependent would have 60 days to notify the plan in order to claim a COBRA right.

The dependent now must notify the employer by September 29, 2020, which is 60 days after the end of the Outbreak Period.

2. COBRA Election Notice Deadline

Employers must notify qualified beneficiaries of their COBRA rights within 14 days after being notified of a qualifying event. This notification period will begin 60 days after the end of the Outbreak Period.

Example: An employee notifies their employer of a divorce on April 1, 2020. The employer would typically have 14 days from this date to provide the ex-spouse with a COBRA election notice.

The employer would now have until August 14, 2020 to provide the election notice to the ex-spouse. Coverage would be retroactive back to April 1, 2020 but the premiums would have to be timely paid back to that date as well.

3. COBRA Election Period

Employees who lose coverage under a group health plan have 60 days after coverage terminates to elect to continue coverage under COBRA.

Example: An employee is furloughed and loses coverage under the group health plan on April 1, 2020. The employee would normally have until May 31, 2020 to elect coverage.

Now the employee may elect coverage within 60 days of the end of the Outbreak Period. The employee has until September 29, 2020 to elect COBRA coverage. Coverage would be retroactive back to April 1, 2020 but the premiums would have to be paid back to that date as well.

4. COBRA Premium Payment Deadline

Employees who elect COBRA must pay the premiums within 30 days of the due date, with the exception of the initial premium which may be paid within 45 days of election. COBRA premiums are typically due on the first day of each month, so the 30-day grace period typically goes through the end of the month.

Example: A former employee elected COBRA on January 1, 2020. Premiums are due by the first of the month, and no later than the 30-day grace period. The former employee stops paying premiums beginning in March and continues to not pay premiums.

The former employee would have until August 30, 2020 (30 days after the end of the Outbreak Period) to pay premiums for March through August to be considered timely. If premiums are not paid after this date coverage would be cancelled retroactive back to the last month in which premiums were timely paid.

While this guidance gives flexibility to employers, we encourage you to continue to issue notices and paperwork in a timely manner if possible. We anticipate COBRA administrators may face challenges administering these extended deadlines.

Benefits Claims Deadlines:

1. Benefit Claims Deadlines

Each benefit plan specifies the period in which an individual can file a benefit claim. The claim filing deadline will disregard the Outbreak Period.

Example: The plan requires benefit claims to be submitted within 365 days of treatment. Assuming the Outbreak Period ends July 31, 2020, the benefit claim must be submitted by July 31, 2021 to be considered timely.

Example: Most calendar year health FSA plans allow employees to submit prior year claims until March 31st of the following year. This deadline falls in the Outbreak Period and therefore, the 3/31/2020 run out deadline is extended until the end of the Outbreak Period. This means if employees had 2019 health FSA claims they did not submit by 3/31/2020, they have until the end of the Outbreak Period to submit their claim for consideration.

2. Claims Appeal Deadlines

Group health plans must allow individuals 180 days to appeal an adverse benefit claim determination. The claims appeal deadline will disregard the Outbreak Period.

Example: An employee receives notice of adverse benefit determination on January 28, 2020. Assuming the Outbreak Period ends July 31, 2020, the appeal must be submitted by December 26, 2020 (180 days – 32 days from January 28 to March 1 which gives 148 days left to appeal)

3. External Review Request Deadlines

Individuals have 4 months after the date of receipt of an adverse benefit determination or final adverse benefit determination to request external review if the claim involves a medical judgment or rescission of coverage. The external review deadline will disregard the Outbreak Period.

Example: Employee receives an adverse benefit determination on April 1, 2020. The employee will have until 4 months from the end of the Outbreak Period (by November 30, 2020) to file for the external review.