



NEW DOL GUIDANCE HAS BIG IMPACT ON COBRA ADMINISTRATION

On April 29 the US Department of Labor (DOL) released [EBSA Disaster Relief Notice 2020-01](#), to provide “guidance and relief” for employee benefit plans due to the COVID-19 outbreak. This notice was jointly drafted and reviewed by the Department of the Treasury (Treasury Department), the Internal Revenue Service (IRS), and the Department of Health and Human Services (HHS), and impacts a wide range of compliance requirements and deadlines under ERISA. One of the key considerations of this relief notice is additional time to comply with certain deadlines affecting COBRA continuation.

The [final rule](#) outlines the joint Agencies efforts to “take steps to minimize the possibility of individuals losing benefits because of a failure to comply with certain pre-established timeframes.” For COBRA specifically, this relief extends both the timeframes for electing and paying for coverage during what the Agencies have defined as the “Outbreak Period.”

The outbreak period is considered as March 1, 2020, the start of the declared National Emergency, until 60 days after the announced end of the National Emergency or such other date announced by the Agencies in a future notice. During this outbreak period, the following COBRA components are to be disregarded:

- The timeliness for providing the COBRA election notice; typically 14 days
- The 60-day election period for COBRA continuation coverage
- The date for making COBRA premium payments; at least 45 days after the initial COBRA election, and within 30 days of subsequent deadlines

So what does this mean, exactly? If the National Emergency were to end May 31, you would apply another 60 days, bringing the outbreak period end date to July 30. THEN you would apply the normal COBRA timeframes, for example: An employee who lost coverage (from March onward) would have until September 28 to elect continuation coverage.

Additionally, with the outbreak period being disregarded, if COBRA premiums are not paid they would not be considered as due (or missed) until 30 days after the end of the outbreak; August 29 if using the dates above. At this point, premium for all months would be due. Elected coverage would remain in effect and coverage cannot be denied during the outbreak period, even when premiums are not yet paid. If COBRA premiums are partially paid, or not paid, by the extended deadline, the guidance states that the plan would not be obligated to cover benefits or services.

This new guidance certainly gives employers and COBRA administrators more to think about as we continue to navigate through these trying times.

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