



EBSA Disaster Relief Notice

The Department of Labor and IRS issued a formal rule extending certain deadlines for group health plans and other welfare benefits. The guidance applies to all plans subject to ERISA. Under this Notice the “outbreak period” began March 1, 2020 and ends 60 days after the announced end of the COVID-19 pandemic. This end date is currently not specified. The Notice applies to the following:

- COBRA
- HIPAA special enrollment
- ERISA claims procedures
- ERISA external review process
- Required ERISA notices, disclosures and documents
- Exchange enrollment
- 5500 and M1 filings.

Things to Know:

- **COBRA**

Deadlines are extended until after the outbreak period ends including:

- Notification of a qualifying event (30 or 60-days)
- Notification of a disability determination (60 days)
- Furnishing of COBRA election notices (14 days)
- Election of COBRA (60 days)
- First premium payment (45 days)
- Subsequent premium payments (30 days).

TASC Comment: COBRA extension timeframes are challenging to coordinate as the end date of the COVID-19 pandemic is unknown. That means no one can accurately calculate extension end dates under the outbreak period (e.g., election and grace periods). TASC handles change requests on a client by client basis.

- **HIPAA Special Enrollment**

The HIPAA 30 and 60-day special enrollment periods are extended 60 days after the announced end date.

- The 30-day special enrollment period for an employee to request enrollment in a health plan (including Healthcare FSA and HRAs) is triggered when there is a loss of eligibility under another health coverage or when the employee acquires a new spouse or dependent.
- The 60-day special enrollment period is triggered there is a change in eligibility for state premium assistance under the Children’s Health Insurance Program (CHIP).

- **ERISA Claims Procedure**

Deadlines are extended for filing and initial disposition of claims, and for providing claimants the opportunity to appeal an adverse determination under an ERISA plan and a non-grandfathered group health plan (including non-excepted Health FSAs and non-excepted HRAs). The rules extend the plan’s deadline to file a benefit claim under the plan’s claims procedures by disregarding the outbreak period.



- **ERISA External Review Process**

Deadlines are extended for providing a state or federal external review process for non-grandfathered group health plans (including non-excepted HRAs) following an exhaustion of the internal appeal procedures. Deadlines for perfecting an incomplete request for review are also extended.

- **Required ERISA Notices, Disclosures and Documents**

Plans and responsible plan fiduciaries have additional time to meet their obligations under ERISA Title I for furnishing of notices, disclosures, and other required documents. If these individuals act in good faith and furnish the required notice, disclosure, or document as soon as administratively practicable under the circumstances they will not be violating ERISA. Per this Notice, a good faith act would “include the use of electronic alternative means of communicating with plan participants and beneficiaries who the plan fiduciary reasonably believes have effective access to electronic means of communication, including email, text messages, and continuous access websites.”

- **Exchange Enrollment**

Employees that lose their employer-sponsored health coverage are reminded that they qualify for a special enrollment period for Exchange plan outside of the Exchange’s annual open enrollment period. This special enrollment must be within 60 days before or after losing the employee-sponsored health coverage. Exchanges also must provide special enrollment periods in cases where coverage is lost due to a family member’s death or when an employer stops contributing to COBRA.

- **Forms 5500 and M-1**

The notice reiterates that Form 5500 filing relief is provided in accordance with previously releases IRS guidance and provides the same relief for Form M-1 filings. Form M-1 filings are required under ERISA for multiple employer welfare arrangements (MEWAs) and certain other entities claiming exception (ECE).

- **General ERISA Fiduciary Compliance Guidelines**

The notice sets forth guiding principles for plans to act “reasonably, prudently, and in the interest of the covered workers and their families who rely on their health, retirement, and other employee benefit plans for their physical and economic wellbeing.” The notice instructs plan fiduciaries to make reasonable accommodations to avoid the loss of benefits or undue delay in benefit payments.

This information provides general information and should not be viewed as legal advice. If you are contemplating any actions listed here, we advise consulting legal counsel to ensure compliance with federal, state and local laws.

Want us to make changes to your TASC plan?

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1-888-595-2261