



Department of Labor Issues Relief for COBRA Deadlines Due to the COVID-19 Health Crisis

The Department of Labor has issued special relief for COBRA Qualified Beneficiaries and participants. This relief is in response to the COVID-19 outbreak (the “National Emergency”) and is effective retroactively for COBRA coverage that began or would have begun 3/1/2020. The end date of this relief has not been announced and is dependent on the date that the federal government declares the National Emergency to have ended. The relief affects COBRA in two broad ways with respect to the COBRA election period and to COBRA premium payments. Please read this information carefully as it modifies some deadlines that may have or may be reported to you.

Election Period Relief

Effective for COBRA coverage periods beginning on or after 3/1/2020 the election period for COBRA has been extended. Normally, the election period ends 60 days from the date of the COBRA qualifying event notice. However, any election period for COBRA coverage on or after 3/1/2020 will now end 60 days after the "Outbreak Period" ends. Currently the outbreak period is undetermined, so any applicable COBRA election period for continuation coverage is essentially open-ended for now.

What This Means to You

If you experienced a qualifying event that makes you eligible for coverage under COBRA beginning on or after 3/1/2020, your election deadline is open-ended at this point in time. You may elect for coverage retroactive to 3/1/2020 even if your qualifying event notice has an election period deadline that expired on or after 3/1/2020.

Example

For clarity, this example assumes that the National Emergency ends on April 30, 2020, with the Outbreak Period ending on June 29, 2020 (the 60th day after the end of the National Emergency).

NOTE: The actual date of the end of the current COVID-19 National Emergency has not been determined.

Individual A works for Employer X and participates in X’s group health plan. Due to the National Emergency, Individual A experiences a qualifying event for COBRA purposes as a result of a reduction of hours below the hours necessary to meet the group health plan’s eligibility requirements and has no other coverage. Individual A is provided a COBRA election notice on April 1, 2020. What is the deadline for A to elect COBRA?

Answer: Individual A is eligible to elect COBRA coverage under Employer X's plan. The Outbreak Period is disregarded for purposes of determining Individual A's COBRA election period. The last day of Individual A's COBRA election period is 60 days after June 29, 2020, which is August 28, 2020.

COBRA Premium Payment Relief

Effective for COBRA coverage periods beginning on or after 3/1/2020 the Outbreak Period will be disregarded with respect to determining the date for making COBRA premium payments.

What This Means to You

For months during which you are covered under COBRA beginning 3/1/2020, your premium payment period is extended. Rather than being due the first of the month for which coverage is being paid with a 30-day grace period, the grace period is extended to 30 days after the end of the Outbreak Period. Please note: the deadline of 30 days after the end of the Outbreak Period will be applicable to ALL premiums up through the end of the Outbreak Period. Be aware that failure to pay monthly COBRA premiums during the Outbreak Period will result in multiple monthly premiums becoming due at the same time. Failure to pay premiums for all months will result in retroactive termination of coverage back to the last month for which timely payment was made. This will result in individual responsibility for any expenses incurred during that period. With the system disruptions caused by these regulatory changes, you may experience a termination in coverage for late payment. If that happens and your circumstances are consistent with the above, you are entitled to have your coverage reinstated without immediate payment.

Examples

For clarity, these examples assume that the National Emergency ends on April 30, 2020, with the Outbreak Period ending on June 29, 2020 (the 60th day after the end of the National Emergency). NOTE: The actual date of the end of the COVID-19 National Emergency has not been determined.

Example 1. On March 1, 2020, Individual C was receiving COBRA continuation coverage under a group health plan. More than 45 days had passed since Individual C had elected COBRA. Monthly premium payments are due by the first of the month. The plan does not permit qualified beneficiaries longer than the statutory 30-day grace period for making premium payments. Individual C made a timely February payment, but did not make the March payment or any subsequent payments during the Outbreak Period. As of July 1, Individual C has made no premium payments for March, April, May, or June. Does Individual C lose COBRA coverage, and if so for which month(s)?

Answer: In this Example, the Outbreak Period is disregarded for purposes of determining whether monthly COBRA premium installment payments are timely. Premium payments made by 30 days after June 29, 2020, which is July 29, 2020, for March, April, May, and June 2020, are timely, and Individual C is entitled to COBRA continuation coverage for these months if she timely makes payment. Under the terms of the COBRA statute, premium payments are timely if made within 30 days from the date they are first due. In calculating the 30-day period, however, the Outbreak Period is disregarded, and payments for March, April, May, and June are all deemed to be timely if

they are made within 30 days after the end of the Outbreak Period. Accordingly, premium payments for four months (i.e., March, April, May, and June) are all due by July 29, 2020. Individual C is eligible to receive coverage under the terms of the plan during this interim period even though some or all of Individual C's premium payments may not be received until July 29, 2020. Since the due dates for Individual C's premiums would be postponed and Individual C's payment for premiums would be retroactive during the initial COBRA election period, Individual C's insurer or plan may not deny coverage, and may make retroactive payments for benefits and services received by the participant during this time.

Example 2. Same facts as Example 3. By July 29, 2020, Individual C made a payment equal to two months' premiums. For how long does Individual C have COBRA continuation coverage?

Answer: Individual C is entitled to COBRA continuation coverage for March and April of 2020, the two months for which timely premium payments were made, and Individual C is not entitled to COBRA continuation coverage for any month after April 2020. Benefits and services provided by the group health plan (e.g., doctors' visits or filled prescriptions) that occurred on or before April 30, 2020 would be covered under the terms of the plan. The plan would not be obligated to cover benefits or services that occurred after April 2020.