

*****PLEASE READ*****

Important Update About Extended COBRA Deadlines

On March 13, 2020, President Trump declared a national emergency related to the COVID-19 outbreak. On May 4, 2020, the IRS and DOL issued a joint rule, Notice 2020-01, that prescribed an “Outbreak Period” during which plans must disregard certain timeframes, including but not limited to:

- COBRA election periods
- COBRA premium payment periods
- The period for qualified beneficiaries to provide notice of qualifying events and disability determinations.

Notice 2020-01 defines the Outbreak Period as the period starting March 1, 2020 and ending 60 days after the National Emergency ends.

The Outbreak Period is subject to a one-year maximum, as outlined in ERISA Section 518. Because of the one-year maximum, many believed that the Outbreak Period would end on February 28, 2021.

However, on February 26, 2021, the DOL issued Notice 2021-01 stating that the Outbreak Period does not end February 28, 2021; it will end 60 days after the declared end of the National Emergency.

As explained in the notice, the one-year maximum allowed under ERISA Section 518 applies to each individual timeframe affected by the Outbreak Period. That means the Outbreak Period for any affected timeframe will end:

- One year after the individual first becomes eligible for relief, or
- Sixty days after the National Emergency ends – whichever comes first.

Once the Outbreak Period ends (whether it is because the one-year period has expired or the Outbreak Period has ended in its entirety), plans can resume applying the applicable timeframes.

Here are a few examples to help show how this works:

- An individual’s COBRA election period began on February 1, 2020. The 60-day election period paused on March 1, 2020 (the date the Outbreak Period started). The one-year period for this individual ends on March 1, 2021, and the election period resumes. This individual has 31 days remaining in their election period (remember, 29 days of the 60 day election period had already expired last year).

NOTE: According to the guidance, plan sponsors and administrators should consider making reasonable accommodations for those who may soon be losing coverage unless action is taken.

- A COBRA election period begins May 1, 2020. Without the Outbreak Period, the election period would end on June 29, 2020 (60 days from May 1). However, the 60-day election period is subject to the Outbreak Period. Assuming the Outbreak Period has not ended in its entirety, this election period now ends on June 29, 2021 (one-year for the Outbreak Period and sixty days for the election period).

TIP: To avoid confusion and make this process easier, simply add one year to the original due date or deadline. It's much easier than measuring one year from the beginning of the affected election period and then figuring out how many days remain in the election period.

- A COBRA premium payment for March 2020 was due March 1, 2020. The grace period for this payment ended on March 31, 2020. The premium was not paid. The one-year period for this payment ends March 1, 2021. Payment for the March 2020 premium is now due by March 31, 2021. Although not explicitly clear in the guidance, conservative employers will not require payment of the April 2020 premium until April 30, 2021 (assuming the March 2020 premium is timely paid).

More Information

You can read the full release on the EBSA website at <http://bit.ly/EBSAupdate>.

What does this mean for you?

UnifyHR will soon send a notice to all impacted qualified beneficiaries alerting them to the changes and expiring deadlines. These notices will direct qualified beneficiaries to contact us with any questions. We will coordinate with you for any exceptions or unique circumstances that may arise.

As soon as possible, but no later than April 9, 2021, we need your decision regarding the “reasonable accommodations” you want to make for those individuals whose election period or coverage may have already ended (or is ending soon) as a result of the one-year expiration.

While “reasonable accommodations” is not defined, you may want to consider applying the standard COBRA timeframes to these individuals (e.g., 30 and 45-day premium payment deadlines, 60-day election periods, etc.), beginning on the date we provide notice to them.

Please review your options with appropriate counsel and then contact your UnifyHR client manager to let them know your decision and discuss any additional questions you may have.

COBRA Subsidies Under the American Rescue Plan

President Biden signed The American Rescue Plan Act on March 11, 2021. The Act includes a full subsidy of COBRA premiums from April 1, 2021 through September 30, 2021 for certain qualified beneficiaries that experienced an involuntary termination of employment or reduction of hours. In most cases, employers maintaining the plan will cover the subsidy amount upfront and be reimbursed by the federal government via tax credits.

The Act requires the DOL and IRS to issue guidance and model notices for use in notifying qualified beneficiaries of their rights under the Act.

We are working with our counsel to prepare for the release of the guidance. We will reach out to you with more information and details about the actions required of you as the information becomes available.