# Employers Take Note of Suspended COBRA Deadlines due to COVID-19

May 7, 2020

The U.S. Departments of Labor and the Treasury recently issued a joint notice promulgating final rules that take effect immediately upon publication in the Federal Register (the ?ÃÂ£***Notice***?ÃÂ¥). The Notice suspends a number of deadlines for employer-sponsored, group health plans, including deadlines under COBRA. The extension period is from March 1, 2020 until 60 days after the federal government announces the end of the COVID-19 national emergency or other date announced by the DOL (the ?ÃÂ£***Outbreak Period***?ÃÂ¥). The Outbreak Period is disregarded in determining whether the following COBRA deadlines have been met: (i) the date by which an individual must notify the plan of a COBRA qualifying event or disability determination, (ii) the 60-day period to elect COBRA coverage, and (iii) the deadline to make COBRA premium payments. Group health plans were also offered relief via the suspension of the deadline for providing COBRA election notices to COBRA qualified beneficiaries. As a result of these suspended deadlines, a terminated employee (or other COBRA qualified beneficiary) could wait months to elect COBRA coverage, or to pay his or her COBRA premiums after electing COBRA coverage. This action increases the risk of adverse selection, *i.e.*, some qualified beneficiaries may choose to wait and elect COBRA coverage, or pay their COBRA premiums, only if a medical condition later emerges. This is illustrated by the following examples from the Notice, assuming the national emergency ended on April 30, 2020 and the Outbreak Period ended on June 29, 2020 (*i.e.*, the 60th day after the end of the national emergency). In one example, an employee who loses coverage and is provided a COBRA election notice on April 1, 2020 has until August 28, 2020 (under the 60-day election period after the end of the Outbreak Period) to elect COBRA coverage. In another example, an individual who has already elected COBRA coverage could maintain such coverage without making any COBRA premium payments for the months of March, April, May, and June, as long as those payments are made by July 29, 2020 (*i.e.*, by the end of the 30-day deadline for COBRA premium payments after the end of the Outbreak Period). Plans traditionally pend submitted claims when an individual is in a COBRA election period and has not yet elected COBRA, or has elected COBRA coverage but has not yet paid the first premium, and will process and pay any such submitted claims only after the election is made and the first premium paid. Employers should ensure their plans?ÃÃ third-party administrators are aware of these suspended deadlines and continue to pend such claims. Another consideration is whether COBRA election notices should be modified to describe these suspended deadlines. On May 1, 2020, after the Notice was issued, the DOL published new COBRA model notices that were updated to include descriptions of the interaction of Medicare and COBRA. These new model COBRA notices did not include any reference to the suspended deadlines, and the accompanying FAQs stated that plans may use these model notices to satisfy election notice requirements. However, this is currently an unresolved issue and additional guidance from the DOL would be appreciated. There may be an ERISA fiduciary duty to provide notice of the new deadlines. Employers sponsoring group health plans should also be aware that there has been a marked increase recently in litigation challenging COBRA notices. These COBRA cases typically allege that a deficient or misleading COBRA notice caused someone to lose health coverage because it lacked required information or was not written in an understandable manner, including providing notices in Spanish if appropriate. The notice is available **here**.

© 2026 Haynes and Boone, LLP