

On April 28, 2020, The U.S. Department of Labor's (DOL) Employee Benefits Security Administration (EBSA) issued plan deadline relief and other guidance under Title I of the Employee Retirement Income Security Act of 1974 (ERISA) to help employee benefit plans, plan participants and beneficiaries, employers and other plan sponsors, plan fiduciaries, and other service providers impacted by the Coronavirus outbreak. The DOL continues to monitor the effects of the outbreak and may provide additional relief as warranted.

Guidance from the DOL is set forth in three pieces – The DOL, Internal Revenue Service (IRS) and Treasury Department Joint Notice; the EBSA Disaster Relief Notice 2020-01; and DOL Frequently Asked Questions (FAQ). This document provides a high-level summary of each.

The DOL, IRS and Treasury Department Joint Notice

The [DOL, IRS and Treasury Department Joint Notice](#) (Joint Notice) extends timeframes for participants time to comply with certain deadlines affecting COBRA continuation of coverage, special enrollment periods, claims for benefits, appeals of denied claims and external review of certain claims. The Joint Notice also provides several examples of the relief applied to hypothetical situations.

Duration of Relief: All group health plans, disability and other employee welfare benefit plans, and employee pension benefit plans subject to ERISA must disregard the period from March 1, 2020 until 60 days after the announced end of the National Emergency or such other date announced by the Agencies in a future notification (this period is referred to as the “Outbreak Period”) for all plan participants, beneficiaries, qualified beneficiaries or claimants in determining the periods and dates listed below.

Relief Extensions for Participants, Beneficiaries and Claimants: These extensions are set to ensure individuals do not miss key deadlines that could result in the loss or lapse of group health coverage or the denial of a valid claim for benefits. The rule requires plans disregard any days within the Outbreak Period when determining certain deadlines, including the following:

- The date within which individuals may **file a benefit claim** under the plan's claims procedure
- The date within which claimants may **file an appeal of an adverse benefit determination** under the plan's claim procedures.
- The 60-day election period for **COBRA continuation** coverage.
- The date for making **COBRA premium payments**.
- The date for individuals to notify the plan of a **COBRA qualifying event** related to the employee's divorce or a dependent child ceasing to be a dependent child, and the date individuals to notify the plan of a determination of disability.

Example from the DOL: Internal appeal – Disability Plan: The following example illustrates the timeframe for extensions. An assumed end date for the National Emergency was needed to make the example clear and understandable. Accordingly, the 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). To the extent there are different Outbreak Period end dates for different parts of the country, the Agencies will issue additional guidance regarding the application of the relief in this document.

(i) *Facts.* Person A received a notification of an adverse benefit determination from Person A’s disability plan on January 28, 2020. The notification advised Person A that there are 180 days within which to file an appeal. What is Person A’s appeal deadline?

(ii) *Conclusion.* When determining the 180-day period within which Person A’s appeal must be filed, the Outbreak Period is disregarded. Therefore, Person A’s last day to submit an appeal is 148 days (180 minus 32 days following January 28 to March 1) after June 29, 2020, which is November 24, 2020.

Additional examples are available [here](#) (page 4).

The EBSA Disaster Relief Notice 2020-01

The [EBSA Disaster Relief Notice 2020-01](#) extends the time for plan officials to furnish benefit statements, annual funding notices and other notices and disclosures required by ERISA so long as they make a *good faith* effort to furnish the documents as soon as administratively practicable. The notice is mostly applicable to retirement plans, but there are portions that apply to health and welfare plans as well.

Duration of Relief: This applies retroactively beginning March 1, 2020 in alignment with the “outbreak period” outlined above.

Additional Direction: The notice explains that *good faith* includes the use of electronic alternative means of communicating with plan participants and beneficiaries who the plan fiduciary reasonably believes have effective means of communication, including email, text messages and continuous access websites. The notice also includes compliance assistance guidance on plan loans, participant contributions and loan payments, blackout periods, 5500 and Form M-1 filing relief and other general compliance guidance on ERISA fiduciary responsibilities.

DOL Frequently Asked Questions

The DOL issued [Frequently Asked Questions](#) for employee benefit plan participants and beneficiaries, as well as plan sponsors, and employers, impacted by the COVID-19 outbreak related to their health and retirement plans and their rights and responsibilities under ERISA.