

Extension of Certain Timeframes Announced for Employee Benefit Plans

Dear TPSC Partner:

The Department of Labor and the Department of the Treasury have extended certain timing requirements related to Special Enrollment, COBRA, and Claims Appeals understanding that plans and plan participants may have difficulty complying with these deadlines during the COVID-19 emergency.

All group health, disability and other welfare plans must comply with the extension of these deadlines. The announcement does not require the plan to provide notice of the extended deadlines to plan participants and doesn't appear to require a plan amendment because of its temporary nature. However, that lays the burden of correctly administering these extensions *solely* on the plan and plan administrators, so it would be prudent to notify plan participants of these extensions with a Summary of Material Modifications via email or website.

All group health, disability and other welfare plans must "disregard" the "Outbreak Period" that began on March 1, 2020 and continues to 60 days after the declared end of the National Emergency. (The end of the emergency may differ among geographic areas.) To calculate the end date of the timing requirement for the following rights or obligations, the beginning date will be the day after the end of the Outbreak Period. For example, if the National Emergency ended on May 31, the Outbreak Period ends 60 days later on July 30. The applicable time period begins on July 31.

Alternatively, if the beginning of the applicable time period occurs before March 1, 2020, the end of the period cannot occur before the end of the Outbreak Period. The Outbreak Period interrupts the time requirement, and the end of the applicable period only ends after the difference between the total number of days for the period less the days that passed before March 1. For example, the time requirement for a Special Enrollment is 30 days. A plan participant got married on February 15 and wants to add the spouse to the plan. By March 1, 14 days (leap year) of the 30 days have passed, so the participant would still have 16 days to enroll the spouse after the end of the Outbreak Period (total 30 days).

The plan may process enrollments, premium payments or claims appeals when received, but may not take an adverse action against the participant until the end of the Outbreak Period plus the applicable time requirement. Although the plan is also relieved of certain time requirements, the plan should issue notices as soon as feasible to avoid extending the expiration of the participant's rights too far into the future.

The ordinary time requirements for the events covered by this announcement are as follows:

Special Enrollment

- The 30-day (or 60-day, if applicable) period during which the participant must request a Special Enrollment.

COBRA Election

- Both employers and participants must notify the plan if they know of a COBRA Qualifying Event. Employers must provide notice within 30 days and employees within 60 days.
- The plan must provide the participant with a Notice of COBRA Election within 14 days of receipt of the Notice of the Qualifying Event.
- After receipt of the Notice of COBRA Election, the participant has 60 days to elect COBRA continuation coverage.

COBRA Premium Payments

- After election of coverage, the first COBRA premium payment is due within 45 days. Subsequent monthly payments are due on the first of the month with a 30-day grace period
- If COBRA was elected before the end of the Outbreak Period, both the initial and any subsequent monthly payments that accrued for coverage and are past due at the end Outbreak Period must be paid within 30 days following the end of the Outbreak Period.
- If COBRA was elected after the end of the Outbreak Period, the first and any subsequent monthly COBRA premium payments are due counting from the participant's date of election.

Claims

- Most TPSC plans allow a claimant to file a benefit claim within one year from the date of service.
- Claimants may file an initial appeal within 180 days and a final appeal within 60 days of an adverse benefit determination.
- A request for an external review (IRO) must be made within 4 months of the final internal adverse benefit determination.
- If a request for an external review is incomplete, the claimant may file additional information to complete the claim within 45-days from notice of the incomplete claim.

The agencies' announcement provides examples of the application of these extensions and may be found at 85 FR 26351, 26354.

<https://www.federalregister.gov/documents/2020/05/04/2020-09399/extension-of-certain-timeframes-for-employee-benefit-plans-participants-and-beneficiaries-affected>

If you have any questions or concerns regarding the extended time requirements, please don't hesitate to contact us at **800.426.9786**.

Thank you for your valued partnership,

The TPSC Team