

## Updates to Certain Extended/Paused Timelines due to COVID-19

As an update to our November 2020 notice, in response to the COVID-19 pandemic the DOL and IRS issued rules ("Joint Notice") that extended or paused certain timelines for employee benefit plans. The deadlines impacted are:

- Deadline for a plan to provide a COBRA election notice
- Deadline to elect COBRA coverage and make COBRA premium payments
- Deadline to elect HIPAA special enrollment
- Deadlines to file claims, appeals, and requests for external review

Under the Joint Notice, these timelines were temporarily paused from March 1, 2020, the effective date of the COVID National Emergency.



On February 26, 2021, the Department of Labor released EBSA Disaster Relief Notice 2021-01, which provides guidance on the Joint Notice and states that the impacted deadlines are extended until the **earlier of** (a) one year, or (b) the end of the Outbreak Period (60 days after the end of the National Emergency, which is ongoing). The extension begins on the date the clock for the particular deadline would have started running. In other words, the one-year extension is applied on a **rolling basis to each deadline**.

President Biden announced in February 2021 that the National Emergency is extended and will continue until further notice.

### Frequently Asked Questions

Examples are based on current information and the President's extension of the National Emergency and will be updated as further guidance is released. **The dates in the examples may change dependent on the end of the National Emergency.**

#### 1. Is there a special enrollment period for enrolling with HMAA after a loss of coverage or acquiring a new dependent?

Yes, there is a special enrollment period (SEP) when enrolling with HMAA after loss of a coverage or acquiring a new dependent due to birth, marriage, adoption, or placement of adoption. The standard SEP of 30 days (or 60 days in the case of special enrollment rights under the Children's Health Insurance Program Reauthorization Act of 2009) may be extended in certain circumstances as described in the following examples:

- Example 1: On April 27, 2020, Jane adopted a child. When can she enroll the child in her HMAA plan, and when will the child be covered? Because the adoption of Jane's child triggered a SEP (adoption as a qualifying event), the Outbreak Period is disregarded. Jane has 30 days from the end of the one-year extension date that the timeline would have started (April 27, 2021), in this case until the deadline (May 27, 2021), to enroll the child with HMAA, provided she pays the premium for all periods of coverage. If the child is a newborn, coverage is effective on the date of birth; otherwise, coverage is effective on the date of adoption.
- Example 2: On May 20, 2020, Jon married. When can he enroll his spouse/partner in his HMAA plan, and when will his spouse/partner be covered? Because the marriage triggered a SEP (marriage as a qualifying event), the Outbreak Period is disregarded. Jon has 30 days from the end of the one-year extension date that the timeline would have started (May 20, 2021), in this case until the deadline (June 19, 2021), to enroll his spouse/partner with HMAA, provided he pays the premium for all periods of coverage.

*(continued)*

## 2. Is there an extended timeframe to elect COBRA continuation coverage?

Yes, the 60-day election period (EP) for COBRA continuation coverage may be extended as described in the following examples:

- Example 1: On March 15, 2020, Nancy loses her employment as well as her group-sponsored health coverage due to COVID-19 and is provided a COBRA election notice from HMAA on March 20, 2020. What is the deadline for Nancy to elect COBRA coverage? Because the loss of Nancy's employment triggered a COBRA election period and the Outbreak Period is disregarded, Nancy has 60 days from the end of the one-year extension date that the timeline would have started (March 15, 2021), in this case until the deadline (May 14, 2021), to elect COBRA coverage. If elected and premiums are paid, her COBRA coverage will be effective March 15, 2020.
- Example 2: On April 1, 2020, Jane loses her employment as well as her group-sponsored health coverage due to COVID-19 and is provided a COBRA election notice by HMAA on April 10, 2020. Jane sends in her election form and first month of COBRA premiums on June 15, 2020 requesting that COBRA coverage become effective July 1<sup>st</sup>. Can this be accommodated? Because the loss of Jane's employment triggered a COBRA election period, the Outbreak Period is disregarded. Jane has 60 days from the end of the one-year extension date that the timeline would have started (April 1, 2021), in this case until the deadline (May 31, 2021), to elect COBRA coverage. If elected and premiums are paid, her COBRA coverage will be effective April 1, 2020. No gap in coverage can exist; therefore, Jane's request for July 1<sup>st</sup> cannot be accommodated.

## 3. What is the deadline for notifying HMAA of a COBRA qualifying event or determination of disability?

The 60-day election (EP) period for individuals to notify HMAA of a COBRA qualifying event (QE) may be extended in certain circumstances as described in the following examples. COBRA qualifying events (QE) include divorce or legal separation causing the spouse to lose eligibility; a child losing eligible dependent status (e.g., upon reaching age 26); or determination of a disability that extends the maximum coverage period from 18 to 29 months.

- Example 1: On March 30, 2020, Nick and his spouse, Melanie, divorce while covered under Nick's HMAA plan. What is the deadline for Nick or Melanie to notify HMAA of the COBRA qualifying event and provide Melanie the opportunity to elect COBRA coverage? Because Nick and Melanie's divorce triggered a COBRA qualifying event for Melanie, the Outbreak Period is disregarded. Nick or Melanie have 60 days from the one-year extension date that the timeline would have started (March 30, 2021), in this case until the deadline (May 29, 2021), to inform HMAA of the COBRA qualifying event.

## 4. What is the deadline to file an appeal of an adverse benefit determination?

The deadline to file an appeal of an adverse benefit determination under HMAA's claims procedures is 365 days from the initial adverse determination (AD), which may be extended in certain circumstances as described in the following example:

- Example 1: Angela received a denial by HMAA for a procedure she received while covered under her HMAA plan. The denial is dated February 19, 2020. If Angela decides to appeal the adverse benefit determination, when will she need to submit her appeal to HMAA? For purposes of determining the appeal deadline, the Outbreak Period is disregarded. Angela's appeal will be deemed timely as long as she submits it within 355 days\* after the end of the Outbreak Period (February 28, 2021), in this case by the deadline (February 18, 2022). *\*Timeframe calculation: 365 days (Standard) – 10 days (utilized prior to outbreak period) = 355 days remaining.*

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