

Pandemic relief for benefit plans ended on Feb. 28, what now?



When the pandemic started, many employers were working with a skeleton staff. That means some of the necessary paperwork associated with coronavirus-related terminations may have slipped through the cracks.



No, this isn't a joke.

Apparently the pandemic benefit plan relief the IRS and the Department of Labor extended to participants in health and retirement plans last year in response to the covid-19 national emergency, which was declared last March 1, has an expiration date — one year, or Feb. 28, 2021.

Really? Apparently yes, even though the national emergency remains ongoing. Why are we so calm, when worry is our default for everything? Because the national emergency is ongoing, we simply can't believe the policy works in the administration don't know this relief was set to expire. And if they didn't know before, they know it now.

The main impact, should the relief fully lapse, would be on COBRA benefits. Let's walk through this now for clarity, because you may be dealing with third-party COBRA administrators who are beginning to chatter.

The ruling

When the pandemic started, many employers were working with a skeleton staff. That means some of the necessary paperwork associated with coronavirus-related terminations may have slipped through the cracks. In anticipation of this, the federal government extended several deadlines so employers can catch up.

Most notably, the Department of Labor and the Internal Revenue Service issued an extension of deadlines for

health plans covered by COBRA — the Consolidated Omnibus Budget Reconciliation Act. As part of this pandemic benefit plan relief response, an April 29 notice extended any deadline that occurred after March 1, 2020 to 60 days beyond the end of the national emergency.

Normally, employers have no more than 44 days after an employee's termination to provide information on options for continuing health insurance coverage.

However, this also applied to terminated employees, extending the deadline for making elections, paying premiums, and more. Yes as of now, the emergency still has not ended and neither the Department of Labor nor the Treasury has released additional guidance.

The law

ERISA § 518 and IRC § 7508A allow the IRS and Department of Labor to extend benefit-related deadlines for one year in times of national emergencies. Both agencies did. The IRS and the DOL jointly released final regulations on [May 4, 2020](#).

The problem? No one ever anticipated the emergency would last for longer than a year. And in fact, those regulations had naively pegged April 30, 2020, as the end of the national emergency.

The general consensus is that, while the one-year limit is a hard deadline, the IRS and the DOL could try to work around it and extend the deadline for another year. The May 4 regulations seem to allow the agencies this flexibility. The administration or Congress, of course, could also act.

The impact

The general consensus also says you should interpret the one-year deadline as ending on Feb. 28, which means all those postponed deadlines snap back into place on March 1st. So what does this mean for all the deadlines those 2020 regulations postponed?

Let's take another look.

The final regulations define the outbreak period as running from March 1, 2020, until 60 days after the announced end of the coronavirus national emergency, which plans had to ignore. As the pandemic benefit plans relief expires, the examples in the regs would seem to break down these time frames this way.

60 days from the end of the outbreak period + applicable benefit deadline

Let's go back to the two COBRA examples the regs used last year. Normally, employees have 60 days after a qualifying event to elect COBRA coverage and 30 days to make payments. If we assume an expiration date of Feb. 28, 2021, the clock starts ticking on March 1.

Example 1. Amy qualified for COBRA because her hours were reduced on April 1, 2020. Amy would have until June 29, 2021, to elect COBRA coverage: 60 days from March 1 = April 30 + 60 days.

Example 2. Carl was already receiving COBRA benefits when the pandemic struck last year. He paid on time for February, but didn't make a payment for March, April, May or June 2020. Carl could keep his benefits for March, April, May and June 2020, provided he pays by May 30, 2021: 60 days from March 1 = April 30 + 30 days.

Maybe not as long

It's important to note there's another interpretation of these deadlines, and, as explained to us by the experts at

Groom Law Group, Chartered, they are substantially shorter. Under this interpretation, the outbreak period includes the 60 days, because the 60-day period counts only during the national emergency.

Amy's COBRA election deadline would end April 29, 2021.

We thank those at [Groom Law Group](#) who helped us out.

What you need to do now

Assuming the IRS and the DOL issue no further guidance in the near future, you need to talk to your COBRA administrator regarding pending claims and which deadline you're comfortable using.