



COVID-19 Emergency Relief Guidance Extended Deadlines for Health and Welfare Plans

The **IRS** has released several pieces of guidance designed to help ease the strain on individuals, employers, and service providers dealing with the 2020 Coronavirus Pandemic including the following Notices:

Notice 2020-18, delays the deadline for filing federal income tax returns and making required tax payments to July 15, 2020. This extension also delays the deadline for making HSA contributions to July 15, 2020.

Notice 2020-23, permits the deadline for numerous time-sensitive tax-related actions to be delayed to July 15, 2020. For actions identified in Rev. Proc. 2018-58, a deadline falling on or after April 1, 2020 and before July 15, 2020 (extension period) is extended to July 15, 2020.

Notice 2020-29, permits election changes for employer-sponsored group health coverage, health FSAs, and dependent care FSAs to be made mid-year and with no special enrollment events. The notice also allows for health FSAs and dependent care FSAs to submit new claims for reimbursement up to December 31, 2020 on amounts that remained in accounts as of a plan year end or the end of a grace period that occurred at any time in 2020.

Notice 2020-35, delays the deadline to file Form 5498-SA with the IRS and deliver to account owners to August 31, 2020.

The **Department of Labor** and the **Department of the Treasury** have also released guidance designed to help ease the strain on individuals, employers, and service providers dealing with the 2020 Coronavirus Pandemic including the following:

Disaster Relief Notice 2020-01, provides relief for furnishing notices, disclosures, and documents (including SPDs and SMMs) to plan participants and beneficiaries when deadlines occur between March 1, 2020 to end of the Outbreak Period* as long as plan fiduciaries act in good faith to furnish the disclosures as soon as administratively practicable. This notice also confirms relief for Form 5500 filing deadlines that occur between April 1, 2020 and July 14, 2020 (calendar year plans are not affected).

Final Rule: Extension of Certain Time Frames for Employee Benefit Plans, Participants and Beneficiaries Affected by the COVID-19 Outbreak, extends and suspends various welfare benefit plan and COBRA deadlines that occur between March 1, 2020 and the end of the Outbreak Period*.

*The end of the Outbreak Period is unknown at this time. Until further guidance is issued it will not be possible to determine the actual dates of deadlines associated with this extension.

| Extension/Relief | | Impact from Coronavirus Pandemic |
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| HSA | | |
| Contributions | | |
| Rev. Proc. 2018-58, Notice 2020-18 and Notice 2020-23 | Extended the 2019 HSA contribution deadline to 7/15/2020. | Applies to 2019 HSA contributions; coincides with the extension of the deadline to file individual 2019 tax returns. |
| Rev. Proc. 2018-58 and Notice 2020-23 | Extended the 60-day rollover deadline applicable to HSAs and Archer MSAs to 7/15/2020. | Provides relief for individuals who had a 60 th day that fell between 4/1/2020 and 7/14/2020. EXAMPLE: Distribution was taken on 3/15/2020 from an HSA, rollover had to be deposited by 5/14/2020. The new deadline is 7/15/2020. |
| Distributions | | |
| Rev. Proc. 2018-58 and Notice 2020-23 | Extended the deadline to remove excesses from HSAs to 7/15/2020 (those who file timely by 7/15/2020 will still automatically receive an extension to 10/15/2020). | Applies to the timely removal of 2019 excess HSA contributions. |
| Reporting | | |
| Notice 2020-35 <i>The deadline was originally postponed in Rev. Proc. 2018-58 and Notice 2020-23</i> | Extended the deadline to file Form 5498-SA with the IRS and deliver to account owners from 7/15/2020 to 8/31/2020. <i>Prior guidance in Rev. Proc. 2018-58 and Notice 2020-23 had postponed the deadline from 5/31/2020 to 7/15/2020.</i> | Account types affected include HSAs, Archer MSAs, and Medicare Advantage MSAs). |

Cafeteria Plan Deadlines

Election Deadlines

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| <p>Rev. Proc. 2018-58 and Notice 2020-23</p> | <p>Extended deadlines for participants to elect cafeteria plan benefits to 7/15/2020 when the election deadline falls between 4/1/2020 and 7/14/2020.</p> | <ul style="list-style-type: none"> i. Provides election deadline relief to non-calendar year cafeteria plans with election deadlines falling between 4/1/2020 and 7/14/2020. ii. Provides election deadline relief to participants who are permitted to change elections based on a change in status with election deadlines falling between 4/1/2020 and 7/14/2020. iii. Provides election deadline relief to new employees entering a cafeteria plan who have an election deadline falling between 4/1/2020 and 7/14/2020. <p>EXAMPLE: An employee had a change in status and is able to change the current health FSA election; the election deadline was scheduled to fall on 4/22/2020. The new election deadline is 7/15/2020.</p> |
| <p>Notice 2020-29</p> | <p>Permits cafeteria plan election changes to be made prospectively at any time during the 2020 plan year.</p> | <p>Ignores the normal requirement for elections to be made in advance of the plan year or due to special enrollment events.</p> <p>Applies to employer-sponsored health coverage, health FSAs, and dependent care FSAs.</p> <p>Permitted election changes include making a new election, revoking an existing election, or increasing or decreasing an existing election.</p> <p>Employer must amend their plans to permit this relief.</p> <p>EXAMPLE: A participant elected to defer \$1,200 into an FSA during open enrollment for a plan that began on 1/1/2020. This individual can now change this election and defer \$2,200 into the FSA instead.</p> |

| Extension/Relief | | Impact from Coronavirus Pandemic |
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| Claim Deadlines | | |
| Notice 2020-29 | <p>Provides an extended grace period.</p> <p>Permits participants to incur new claims for reimbursement up to 12/31/2020 based on amounts that remained in their FSA as of the end of a plan year or end of a grace period that occurred at any time in 2020.</p> | <p>Applies to health FSAs and dependent care FSAs.</p> <p>Employers must amend their plans to permit this relief.</p> <p>EXAMPLE: <i>An employee was a participant in a 2019 calendar year FSA with a grace period that ended on 3/15/2020. \$1,200 remained in the account as of that date. She had no claims that she could submit for reimbursement up through 3/15/2020. But on 6/29/2020, she received medical services in excess of \$1,200. She can submit the claim and be reimbursed for that amount.</i></p> |
| Final Rule: Extension of Certain Time Frames | <p>Extended the period for filing a benefit claim. Time frames for filing claims are not imposed by statute, but instead are established by the plan and must be reasonable.</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the deadline.</p> <p>NOTE: <i>This will extend the deadline for filing claims for calendar-year health FSAs and HRAs that had a runout period that ended on 3/1/2020 or later.</i></p> <p>EXAMPLE: <i>An employee terminated employment and lost coverage on 5/1/2020. The plan has a 90 day-runout period for terminated participants, so the employee would normally have until 7/30/2020 to submit claims for reimbursement of eligible expenses incurred before termination of employment. The period between the termination of employment and 60 days after the announced end of the National Emergency is now disregarded. If the end of the National Emergency is declared to be 12/31/2020, the runout period of 90 days will be calculated starting from 3/1/2021 and ending on 5/30/2021.</i></p> |
| Final Rule: Extension of Certain Time Frames | <p>Extended the period to file an appeal of an adverse benefit determination. This period must be at least 60 days (for welfare benefit plans) or 180 days (for group health plans) following receipt of a notification of the adverse benefit determination.</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the deadline.</p> |
| Final Rule: Extension of Certain Time Frames | <p>Extended the 4-month period for filing a request for external or internal review.</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the deadline.</p> |

| | Extension/Relief | Impact from Coronavirus Pandemic |
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| Final Rule: Extension of Certain Time Frames | Extended the 4-month period for filing information for a claimant to perfect a request for external review. | Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the deadline. |
| Forfeiture Deadlines | | |
| Rev. Proc. 2018-58 and Notice 2020-23 | Extended the deadline for participants to forfeit unused FSA benefits to 7/15/2020 when the deadline falls between 4/1/2020 and 7/14/2020. | Provides additional time for FSA funds to be used or forfeited by participants in noncalendar-year plans with plan-year ends (or the end of a grace period) occurring between 4/1/2020 and 7/14/2020. <i>EXAMPLE: A noncalendar-year FSA had a grace period that ended on 5/22/2020. The grace period now ends on 7/15/2020.</i> |
| Rev. Proc. 2018-58 and Notice 2020-23 | Extended the deadline for participants to receive cash for unused vacation days to 7/15/2020 when the deadline falls between 4/1/2020 and 7/14/2020. | Provides more time for participants to receive cash or forfeit unused vacation days for non-calendar-year plans with plan years ending between 4/1/2020 and 7/14/2020. |
| Group Health Plan Enrollment | | |
| Final Rule: Extension of Certain Time Frames | Extended the 30-day period (or 60-day period, depending on the plan) for employees (and eligible dependents) to elect coverage under a group health plan following a special enrollment event. | Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the 30-day (or 60-day) period. <i>EXAMPLE: An employee had a child on 3/20/2020 and would normally have 30 days to elect coverage for the child. The period between the birth and 60 days after the announced end of the National Emergency is now disregarded. If the end of the National Emergency is 8/11/2020, the 30-day period would be calculated from 10/10/2020 to end on 11/9/2020.</i> |

| | Extension/Relief | Impact from Coronavirus Pandemic |
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| <p>Notice 2020-29</p> | <p>Permits health plan election changes to be made prospectively at any time during the 2020 plan year.</p> | <p>Ignores the requirement for elections to be made in advance of the plan year or due to special enrollment events.</p> <p>Applies to employer-sponsored health coverage, health FSAs, and dependent care FSAs.</p> <p>Permitted changes include making a new election to enroll when coverage had previously been declined; revoking existing coverage elections and making new coverage elections (e.g., switching from self-only coverage to family coverage); or revoking existing elections to enroll in other coverage not sponsored by the employer.</p> <p>Employers must amend their plans to permit this relief.</p> <p>EXAMPLE: <i>A participant declined his employer's health coverage during open enrollment for a calendar year health plan that began on 1/1/2020. On 7/15/2020, he decided to enroll in his employer's health coverage. He is permitted to elect coverage under the employer's health plan.</i></p> |
| <p>Form 5500 Filing Deadline</p> | | |
| <p>Rev. Proc. 2018-58 and Notice 2020-23 and EBSA Disaster Relief Notice 2020-01</p> | <p>Extended Form 5500 filing deadlines to 7/15/2020 for form filing deadlines occurring between 4/1/2020 and 7/14/2020.</p> | <p><i>This relief does not apply to calendar-year plans with a regular filing date of 7/31/2020.</i></p> |

Notice and Disclosure Deadlines

EBSA Disaster Relief Notice 2020-01

Extended the deadline for providing all disclosures required under Title I of ERISA (except those specifically addressed in the Final Rule).

The normal deadline for providing the SPD is 90 days after a participant becomes covered by the plan.

The normal SMM deadline is 210 days after the close of a plan year in which a change is adopted, or for a material modification, 60 days after the change is adopted. In some circumstances, the requirement may be 60 days advanced notice if the change takes effect mid-plan year and affects the SPD's content.

The normal deadline for providing a participant a copy of the SPD, SMM, or the latest Form 5500, is 30 days after the participant submits the written request.

The normal SAR deadline is 9 months after the close of the plan year.

Ignores the period from March 1, 2020, until 60 days after the National Emergency (the Outbreak Period) when calculating deadlines. But the plan administrator must still act in good faith to furnish the required item as soon as administratively practicable under the circumstances. This includes use of electronic communications.

COBRA

Deadlines

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| <p>Final Rule: Extension of Certain Time Frames</p> | <p>Extended the election period for qualified beneficiaries to elect COBRA following a qualifying event. The normal election period ends 60 days following the later of the qualifying event or the date of the notice to the qualified beneficiary.</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the 60-day period.</p> <p>EXAMPLE: <i>An employee terminated on 5/5/2020 and would normally have 60 days to elect COBRA. The period between his termination of employment and 60 days after the announced end of the National Emergency is now disregarded. If the end of the National Emergency is 9/15/2020, the 60-day election period would be calculated from 11/14/2020 to end on 1/13/2021.</i></p> |
| <p>Final Rule: Extension of Certain Time Frames</p> | <p>Extended the time a qualified beneficiary is permitted to submit a timely COBRA premium payment before coverage under the plan will cease. The normal deadline for the payment to be considered timely is 30 days after the due date (or 45 days for the initial payment).</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the 30-day deadline (or 45-day deadline for the initial payment).</p> |
| <p>Final Rule: Extension of Certain Time Frames</p> | <p>Extended the date by which a covered employee or qualified beneficiary must notify the plan administrator of the following qualifying events: divorce or legal separation, or a dependent child ceasing to be a dependent child. The normal deadline is 60 days after the date of the qualifying event.</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the 60-day deadline.</p> |
| <p>Final Rule: Extension of Certain Time Frames</p> | <p>Extended the date by which a covered employee or qualified beneficiary must notify the plan administrator of a disability determination. The normal deadline is 60 days after the date of being determined to be disabled.</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the 60-day deadline.</p> |
| <p>Final Rule: Extension of Certain Time Frames</p> | <p>Extended the deadline for the plan administrator to provide qualifying beneficiaries with notification of their COBRA rights following a qualifying event. The normal deadline is 14 days (or 44 days when the employer is the plan administrator).</p> | <p>Ignores the period from 3/1/2020 until 60 days after the National Emergency (the Outbreak Period) when calculating the 14-day (or 44-day) deadline.</p> <p>NOTE: <i>While it is not required to provide the COBRA election notice during the Outbreak Period, a plan would still have to provide COBRA coverage if a participant elects it. Plans will likely want to provide timely notices to encourage qualified beneficiaries to elect and pay for COBRA coverage.</i></p> |