

Outbreak Period Deadline Timing

In May 2020, the IRS and DOL issued the [Notice of Extension of Certain Timeframes for Employee Benefit Plans, Participants and Beneficiaries Affected by the COVID-19 Outbreak](#) (the Joint Notice).

The Joint Notice specified that for the shorter period of either up to one year or 60 days after the end of the National Emergency (the Outbreak Period), certain deadlines would be postponed.

The President has declared his intention to end the National Emergency relating to the COVID-19 pandemic on May 11, 2023. As a result, absent any further changes or modifications to the deadline, the Outbreak Period will end on July 10, 2023, and plan deadlines that were delayed by the Joint Notice will begin to run again on July 11, 2023.

Outlined below are the various deadlines that were disregarded under the Joint Notice, and the relevant dates that apply to the disregarded time periods.

60-Day Deadlines

COBRA Qualified Beneficiary Notifications to Plan, COBRA Election Periods, and HIPAA Special Enrollment Periods

A 60-day deadline applies for COBRA qualified beneficiaries to notify the plan of their qualifying event (applicable when there is a divorce, legal separation, a dependent child ceases to be a dependent, or there is a Social Security disability notification) and for qualified beneficiaries to elect COBRA coverage. The deadline for individuals to make benefit election changes following a HIPAA special enrollment event can be up to 60 days, depending on the plan terms. A minimum of 60 days, however, is required if the special enrollment event is due to a loss of eligibility under Medicaid or the Children's Health Insurance Program (CHIP).

For example, if the Outbreak Period ends on July 10, 2023, as anticipated, the 60-day COBRA election deadline will take effect as follows.

- A qualified beneficiary who received a COBRA Election Notice on July 10, 2022, or earlier, has one year from the original COBRA election deadline to elect COBRA coverage (on or before September 8, 2023).
NOTE: *July 10, 2022, is the last date for receiving an election notice that is subject to the one-year limitation. This date is also concurrent with the deadlines that will run to the end of the Outbreak Period. All original election deadlines that would have occurred before September 8, 2022, will also be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the election notice was provided on July 9, 2022, the qualified beneficiary will have until September 7, 2023, to elect COBRA coverage.*
- A qualified beneficiary who receives a COBRA Election Notice between July 11, 2022, and July 10, 2023, has until 60 days after the end of the Outbreak Period to elect COBRA (September 8, 2023).
- A qualified beneficiary who receives a COBRA Election Notice on or after July 11, 2023, is subject to the normal 60-day deadline and the Outbreak Period extensions have no impact (e.g., the qualified beneficiary must elect COBRA on or after September 9, 2023).

30-Day Deadlines

HIPAA special enrollment period

As previously mentioned, HIPAA special enrollment periods can last up to 60 days. Most plan administrators, however, impose a 30-day deadline for making election changes following a HIPAA special enrollment event. So if the Outbreak Period ends on July 10, 2023, a 30-day deadline will take effect as follows.

- If the HIPAA event occurred on July 10, 2022, or earlier, the individual will have one year from the original deadline to make a benefit election change (on or before August 9, 2023).
NOTE: *July 10, 2022, is the last date on which a HIPAA special enrollment event can occur that is subject to the one-year limitation. This date is also concurrent with the deadlines that will run to the end of the Outbreak Period. All original election change deadlines that would have occurred before August 9, 2022, will be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the HIPAA event occurred on July 9, 2022, the individual will have until August 8, 2023, to make election changes.*
- If the HIPAA event occurs between July 11, 2022, and July 10, 2023, the individual will have until 30 days after the end of the Outbreak Period (August 9, 2023) to make or change benefit elections.
- If the HIPAA event occurs on or after July 11, 2023, the individual is subject to the normal 30-day deadline and the Outbreak Period extensions have no impact (e.g., election changes must be made on or after August 10, 2023).

NOTE: *A minimum of 60 days is required if the special enrollment event is due to a loss of eligibility under Medicaid or CHIP.*

14-Day Deadlines

COBRA Qualifying Event notification deadline (for the employer to notify the plan administrator)

Employers generally have 14 days to notify the plan administrator that a qualified beneficiary has experienced a qualifying event. Assuming the Outbreak Period ends on July 10, 2023, the deadline will take effect as follows.

- If the qualifying event occurred on July 10, 2022, or earlier, the employer has one year from the original deadline to notify the plan administrator (on or before July 24, 2023).
NOTE: *July 10, 2022, is the last qualifying event date that is subject to the one-year limitation. It is also concurrent with the deadlines that will run to the end of the Outbreak Period. All original notification deadlines that would have occurred before July 24, 2022, will be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the qualifying event occurred on July 9, 2022, the employer will have until July 23, 2023, to notify the plan administrator.*
- If the qualifying event occurs between July 11, 2022, and July 10, 2023, the employer has until 14 days after the end of the Outbreak Period to notify the plan administrator (July 24, 2023).
- If the qualifying event occurs on or after July 11, 2023, the employer is subject to the normal 14-day deadline and the Outbreak Period extensions have no impact (e.g., the employer must notify the plan administrator of the qualifying event on or after July 25, 2023).

NOTE: *The plan may have continued to operate in accordance with normal deadlines during the Outbreak Period if it was convenient to do so. If the employer was informing the plan administrator of qualifying events based on the normal rules, there will be no impact to this aspect of plan operations as the Outbreak Period comes to a close.*

44-Day Deadline

COBRA Election Notice deadline (when the employer is also the plan administrator)

In situations where the employer is also the plan administrator, the employer will have 44 days following the qualifying event to provide the COBRA Election Notice to the qualified beneficiary instead of 14 days to provide notification to the plan administrator. If the Outbreak Period ends on July 10, 2023, the notice deadline will take effect as follows.

- If the qualifying event occurred on July 10, 2022, or earlier, the employer has one year from the original deadline to provide the notice (on or before August 23, 2023).
NOTE: *July 10, 2022, is the last date for a qualifying event to occur that is subject to the one-year limitation. This date is also concurrent with the deadlines that will run to the end of the Outbreak Period. All original notice deadlines that would have occurred before August 23, 2022, will be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the qualifying event occurred on July 9, 2022, the employer will have until August 22, 2023, to provide the qualified beneficiary with the COBRA election notice.*
- If the qualifying event occurs between July 11, 2022, and July 10, 2023, the employer has until 44 days after the end of the Outbreak Period to provide the notice (August 23, 2023).
- If the qualifying event occurs on or after July 11, 2023, the employer is subject to the normal 44-day deadline to provide the COBRA election notice and the Outbreak Period extensions will have no impact (e.g., the notice must be provided on or after August 24, 2023).

NOTE: *The plan may have continued to operate in accordance with normal deadlines during the Outbreak Period if it was convenient to do so. If the employer was providing COBRA notices following qualifying events based on the normal rules, there will be no impact to this aspect of plan operations as the Outbreak Period comes to a close.*

45-Day Deadline

COBRA Premium Payments

Qualified beneficiaries must generally make their initial premium payment within 45 days of electing COBRA coverage. Assuming the Outbreak Period ends on July 10, 2023, the payment deadline will take effect as follows.

- If the qualified beneficiary elected COBRA coverage on or before July 10, 2022, the qualified beneficiary will have one year from the original payment deadline to make the premium payment (on or before August 24, 2023).
NOTE: *July 10, 2022, is the last election date that is subject to the one-year limitation. It is also concurrent with the deadlines that will run to the end of the Outbreak Period. All original premium payment deadlines that would have occurred before August 24, 2022, will be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the qualified beneficiary elected COBRA coverage on July 9, 2022, the qualified beneficiary will have until August 23, 2023, to make the premium payment.*
- If the qualified beneficiary elects COBRA coverage between July 11, 2022, and July 10, 2023, the qualified beneficiary will have until 45 days after the end of the Outbreak Period to make the initial premium payment (August 24, 2023).
- If the qualified beneficiary elects COBRA coverage on or after July 11, 2023, the qualified beneficiary is subject to the normal 45-day payment deadline and the Outbreak Period extensions will not apply (e.g., the premium payment must be made on or after August 25, 2023).

NOTE: *The initial premium payment must include all premium payments from the start of coverage through July 2023. The August 2023 premium payment must be made by August 30, 2023.*

90-Day Deadline

FSA Runout Period for Filing Claims

Plan participants usually have until the end of the FSA plan year to file a claim, unless the employer provides an FSA runout period. Runout periods are commonly 90 days, but can be shorter, depending on the terms of the plan. If the Outbreak Period ends on July 10, 2023, a 90-day runout period will take effect as follows.

- If the plan year ended on or before July 10, 2022, the plan participant will have one year from the original runout deadline to submit claims (on or before October 8, 2023).

NOTE: *July 10, 2022, is the last plan year end date that is subject to the one-year limitation. It is also concurrent with the deadlines that will run to the end of the Outbreak Period. All original runout period deadlines that would have occurred before October 8, 2022, will be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the plan year ended on July 9, 2022, the plan participant will have until October 7, 2023, to submit the claim.*

- If the plan year ends between July 11, 2022, and July 10, 2023, the plan participant will have until 90 days after the end of the Outbreak Period to submit claims (October 8, 2023).
- Normal claim deadlines will resume for plan years that end on July 11, 2023, or later. Plan years that end on or after this date are subject to the maximum 90-day runout period and the Outbreak Period extensions will not apply (e.g., claims must be submitted on or after October 9, 2023).

Notes on Common Plan Year End Dates

The following examples show how the Outbreak Period extensions affect claim submission deadlines.

- If a calendar year plan ended on December 31, 2021, and had a 90-day runout period, plan participants would normally have had to submit claims by March 31, 2022. Under the Outbreak Period extensions, these plan participants had until March 31, 2023, to submit claims.
- If a fiscal year plan ended on June 30, 2022, and had a 90-day runout period, plan participants would normally have had to submit claims by September 28, 2022. Under the Outbreak Period extensions, these plan participants now have until September 28, 2023, to submit claims.
- If a calendar year plan ended on December 31, 2022, and had a 90-day runout period, plan participants would normally have had to submit claims by March 31, 2023. Under the Outbreak Period extensions, these plan participants will have until October 8, 2023, to submit claims.
- If a fiscal year plan ends on June 30, 2023, and has a 90-day runout period, plan participants would normally have to submit claims by September 28, 2023. Under the Outbreak Period extensions, these plan participants will have until October 8, 2023, to submit claims.

Calendar year plans that end on December 31, 2023, will not have runout periods that are subject to the Outbreak Period extensions.

180-Day Deadlines

Claim Appeal Deadline

If an adverse benefit determination occurs, the claimant generally has 180 days to file an appeal. If the Outbreak Period ends on July 10, 2023, the claim appeal deadline will take effect as follows.

- If the plan provides the adverse benefit determination notification on or before July 10, 2022, the claimant will have one year to appeal (on or before January 6, 2024).

NOTE: *July 10, 2022, is the last adverse benefit determination date that is subject to the one-year limitation. It is also concurrent with the deadlines that will run to the end of the Outbreak*

Period. All original claim appeal deadlines that would have occurred before January 6, 2024, will be subject to a one-year limitation that will end before the end of the Outbreak Period. For example, if the adverse benefit determination was made on July 9, 2022, the claimant will have until January 5, 2024, to file the appeal.

- If the plan provides the adverse benefit determination notification between July 11, 2022, and July 10, 2023, the claimant will have until 180 days after the end of the Outbreak Period to appeal (January 6, 2024).
- If the plan provides the adverse benefit determination notification on or after July 11, 2023, the claimant is subject to the normal 180-day deadline to file the appeal and the Outbreak Period extensions will have no impact (e.g., the appeal must be made on or after January 7, 2024).