



EBSA Disaster Relief Notice

The Department of Labor and IRS have jointly issued a formal rule that extends certain deadlines for group health plans and other welfare benefits. The guidance applies to all plans subject to ERISA. Under this Notice, the “outbreak period” beginning March 1, 2020, and ending 60 days after the announced end of the COVID-19 emergency is to be disregarded for the following purposes:

- COBRA
- HIPAA special enrollment
- ERISA claims procedures
- ERISA external review process
- Required ERISA notices, disclosures and documents
- Exchange enrollment
- 5500 and M1 filings.

Things to Know:

- **COBRA**
 - Deadlines have been extended until after the outbreak period ends. These deadlines include:
 - the deadline for an employer or individual to notify the plan of a qualifying event (30 or 60-days)
 - the deadline for an individual to notify the plan of a disability determination (60 days)
 - the deadline for the plan administrator to furnish COBRA election notices (14 days)
 - the deadline for participant to elect COBRA (60 days)
 - the deadline in which an individual must make a first premium payment (45 days)
 - the deadline for subsequent premium payments (30 days).
 - The following are two examples included in the Notice that assume the National Emergency ends on April 30, 2020, and an “outbreak period” ending June 29, 2020 (these specific dates are used for example purposes only):
 - A participant experiences a COBRA qualifying event. On April 1st, they receive a COBRA election notice. Typically, they would have 60 days from April 1st to elect COBRA (i.e. May 31st). Under this new ruling, the participant would have until August 29th to elect COBRA
 - A participant was receiving COBRA coverage and made an on-time payment in February but has yet to send in payment for the month of March. Under the new ruling, the participant now has until 30 days after the outbreak period (June 29th, 2020) to make timely payment. Premium payments made 30 days after June 29, 2020, (July 29, 2020) for March, April, May, and June 2020, are timely, and the participant is entitled to COBRA continuation coverage for these months if she makes payment for those 4 months by July 29th, 2020.
 - TASC Comment: The COBRA extension timeframes will be challenging for Employer’s and Third-Party Administrator’s (TPA’s) to coordinate as the end date of the COVID-19 emergency is unknown. Since this date is unknown, no one will be able to accurately calculate extension end dates under the outbreak period relating (such as: election and grace periods). However, TASC will handle requests to make these changes on a client by client basis. Employer’s and TPA’s who are familiar with COBRA regulations

understand this is uncharted territory as COBRA regulations historically are date driven and specific. These are uncertain times where adaptability of process and compliance are key.

- **HIPAA Special Enrollment**

- The HIPAA 30-day and 60-day special enrollment periods are extended to 60 days after the announced end of the COVID-19 Emergency.
 - The 30-day special enrollment period for an employee to request enrollment in a health plan (including Healthcare FSA and HRAs) is triggered when there is a loss of eligibility under another health coverage or when the employee acquires a new spouse or dependent.
 - The 60-day special enrollment periods are triggered there is a change in eligibility for state premium assistance under the Children's Health Insurance Program (CHIP).

- **ERISA Claims Procedure**

- The deadlines are extended for individuals to file claims for benefits, for initial disposition of claims, and for providing claimants the opportunity to appeal an adverse benefit determination under an ERISA plan and a non-grandfathered group health plan (including non-excepted Health FSAs and non-excepted HRAs). The rules extend the plan's deadline to file a benefit claim under the plan's claims procedures by disregarding the Outbreak Period.

- **ERISA External Review Process**

- Non-grandfathered group health plan (including non-excepted HRAs) deadlines have been extended for providing a state or federal external review process following exhaustion of the plan's internal appeals procedures. Other deadlines that apply for perfecting an incomplete request for review are also extended.

- **Required ERISA Notices, Disclosures and Documents**

- Plans and responsible plan fiduciaries have additional time to meet their obligations under ERISA Title I as they regard the furnishing of notices, disclosures, and other required documents. If these individuals act in good faith and furnish the required notice, disclosure, or document as soon as administratively practicable under the circumstances they will not be violating ERISA.
 - Per this Notice, a good faith act would "include the use of electronic alternative means of communicating with plan participants and beneficiaries who the plan fiduciary reasonably believes have effective access to electronic means of communication, including email, text messages, and continuous access websites."

- **Exchange Enrollment**

- Employees that lose their employer-sponsored health coverage are reminded that they qualify for a special enrollment period for Exchange plan outside of the Exchange's annual open enrollment period. This special enrollment must be within 60 days before or after losing the employee-sponsored health coverage. Exchanges also must provide special enrollment periods in cases where coverage is lost due to a family member's death or when an employer stops contributing to COBRA.

- **Forms 5500 and M-1**

- The notice reiterates that Form 5500 filing relief is provided in accordance with previously releases IRS guidance and provides the same relief for Form M-1 filings. Form M-1 filings are required under ERISA for multiple employer welfare arrangements (MEWAs) and certain other entities claiming exception (ECE).
- **General ERISA Fiduciary Compliance Guidelines**
 - The notice sets forth guiding principles for plans to act “reasonably, prudently, and in the interest of the covered workers and their families who rely on their health, retirement, and other employee benefit plans for their physical and economic wellbeing.” The notice instructs plan fiduciaries to make reasonable accommodations to avoid the loss of benefits or undue delay in benefit payments

Important: This information sheet is meant to provide you with general information and should not be viewed as legal advice. If you are contemplating the employment actions discussed herein you are advised to consult your legal counsel regarding these actions to ensure you are in compliance with federal, state and local laws. It is also important for you to check with your insurance carrier or other TPA regarding any coverage rules that may apply.

Additional Resources

We want to help! You don't need to be a TASC customer to call our hotline or download our helpful documents.

General questions on this information	Want us to make changes to your TASC plan?	Want guidance for another benefits TPA?
 <p>Call our Special Forces COVID-19 hotline: Call 1-833-433-1002</p>	 <p>Contact us to do all or part of this work effort for you: 1-888-595-2261, or Get Started.</p>	<p>Share our How-To document with your administrator: Get Started.</p>



Why TASC?

For more than 40 years, TASC has been a leader, an innovator, and a partner of employers committed to ensuring the health, wealth and well-being of their employees and their employees' families and community. TASC was a pioneer in assisting sole-proprietor farmers and small businesses save billions in tax dollars through the adoption of health reimbursement plans; challenging many ill-informed IRS auditors, accountants, and naysayers along the way. TASC, through FlexSystem, brought the idea of a Cafeteria Plans to large and small businesses; challenging the notion that such plans were burdensome, complicated and difficult to administer.

There from the beginning of Section 125, TASC has brought its knowledge and expertise forward with the idea that together we can improve lives of many, strengthen our communities, and make benefits feel like benefits. TASC understands that each employers circumstance is different. TASC offers its guidance based upon the wealth of its experience as an employer and as a benefits administrator. It is not legal or tax advice and should not be taken as such but is offered to prompt knowledgeable inquiry of your plan professionals and provoke thoughtful plan decision making.

TASC provides its clients with an audit guarantee with respect to serviced tax advantaged accounts. Subject to certain conditions and restrictions, this guarantee provides that in the event a client suffers an adverse finding by the IRS or Department of Labor, despite following TASC's plans and procedures, resulting in interest charges and/or assessed penalties, such interest and penalties will be covered by the guarantee.