

# A Robinson+Cole Legal Update

## Coronavirus (COVID-19)

May 7, 2020

### Joint Agency Guidance Extends COBRA and Other ERISA Deadlines

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On May 4, 2020, the Department of Labor and Department of Treasury (the Departments) issued joint guidance requiring certain COBRA, HIPAA and ERISA deadlines be determined without regard to the "Outbreak Period," which began March 1, 2020, and will continue until 60 days after the COVID-19 national health emergency is formally declared to be over ([Joint Notice](#)).

The Joint Notice requires that plans disregard the Outbreak Period for purposes of the deadlines enumerated below:

#### COBRA-Related Deadlines

Employer Notice to Plan Administrator	The 30-day period for an employer to notify a plan administrator of a qualifying event
COBRA Election Notice	
Plan Administrator	The 14-day period for the plan administrator to provide the COBRA Election Notice to the qualified beneficiary
Qualified Beneficiary	The 60-day deadline to elect COBRA
Employee Notice of Qualifying Event or Disability	The 60-day period for a qualified beneficiary to provide notice of a qualifying event or disability determination
COBRA Initial Premium Deadline	The 45-day deadline for the initial premium payment
COBRA Premium Grace Period	The grace period (minimum of 30 days) required for subsequent COBRA premium payments

#### HIPAA-Related Deadlines

HIPAA Special Enrollment	The 30-day period (or 60-days in the case of a loss of CHIP or Medicaid coverage) in which an employee (or dependents) can enroll in a plan outside of open enrollment
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#### ERISA-Related Deadlines

Internal Claims and Appeals Deadlines	Deadlines to file internal claims for benefits or appeal adverse benefit determinations
External Review Deadlines	Deadlines to request, and to perfect an incomplete request for, external review of certain adverse benefit determinations under non-grandfathered health plans

In addition to the Joint Notice, the Department of Labor also issued Disaster Relief Notice 2020-01, which:

- delays the notice and disclosure requirements under Title I of ERISA (except those covered by the Joint Notice) and blackout notice requirements;
- provides relief for plan failures to follow proper loan verification procedures;
- provides relief from the ERISA adequate security requirements for plans that adopt the CARES Act plan loan provisions (e.g., delayed loan repayment, increased plan loan limits);
- provides relief for temporary delays in sending participant contributions and loan repayments to the plan; and
- delays Form 5500 and Form M-1 deadlines with respect to filings due prior to July 15, 2020 (as previously extended by [IRS Notice 2020-23](#)).

Both the Joint Notice and the Disaster Relief Notice 2020-01 will present unique challenges for employers administering ERISA plans, particularly because the Outbreak Period applies retroactively and it is unclear when the end of the Outbreak Period will occur and thus cannot yet be determined. The Departments continue to issue guidance which may change or evolve, therefore employers are encouraged to seek competent counsel with respect to these issues.

*This legal update reflects guidance issued by the Departments as of this date and does not reflect any changes in the Department's guidance that occur thereafter.*

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