

A solid red horizontal banner with the text 'e-Alert' in white, centered. The background of the entire page is a photograph of the United States Capitol building with an American flag waving in the foreground.

## e-Alert

03.05.21

# COVID-19 Relief for Benefit Plans: Latest DOL Guidance on COBRA Outbreak Period

## Background

Last year, federal agencies issued relief postponing various employee benefit plan deadlines during a defined “Outbreak Period” to help plans, participants, and service providers impacted by the COVID-19 pandemic.

One year later, the “Outbreak Period” continues as the National Emergency remains in effect. This means that Agencies’ one-year statutory limit on extensions means the COBRA clock will restart March 2021.

## Summary

The Department of Labor (DOL) and Internal Revenue Service (IRS), together, issued a formal rule last spring, which extended COBRA deadlines, allowing for plan participants, beneficiaries, and employers additional time to make critical decisions on medical coverage to face the COVID-19 pandemic. The term was dubbed the “Outbreak Period”.

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Per the Join Notice, the Outbreak Period was intended to expire 60 days after the announced end of the National Emergency, but by law cannot exceed one year. It has since been extended into April 2021. The Agencies' right to grant relief was limited to 12 months but it was unclear if the Outbreak Period would effectively end February 2021, one year from when it began.

The DOL released more information clarifying what this means for COBRA deadlines, which can be found [here](#). Individuals have either one year from when they are first eligible for the relief or 60 days after the to-be-announced end of the National Emergency, to file for eligibility for relief under Notices: elections, payments, notifications of secondary event, etc.

Depending on when the National Emergency ends, some individuals' deadlines may not be extendable for the entire Outbreak Period. The COBRA clocks restarted, March 1, 2021, for those who have had at least 12 months of relief.

Employers and plan sponsors should continue to adhere to the normal COBRA processing deadlines.

#### **Sample Participant Scenarios:**

- A qualified beneficiary (QB) who has not elected with a COBRA start date of March 1, 2020; the 60-day COBRA election clock starts March 1, 2021. The last day to elect COBRA is April 29, 2021.
- QBs who have elected but have not paid – COBRA start date of March 1, 2020, elected on March 15, 2020, but has not paid – the initial 45-day COBRA premium payment, the clock starts counting March 1, 2021. The last day to make a payment is April 14, 2021.
- A QB with an elected COBRA start date of March 1, 2020, paid, and then terminated November 30, 2020. Under the Outbreak Period the 30-day grace period for the December 2020 premium payment has not started counting. It will begin on March 1, 2021. The last day to pay December's premium or bring the account current, is March 30, 2021.
- A QB was sent an election notice on January 15, 2020 with a COBRA start date of February 1, 2020. In February 2020 there was a total of 29 days, leaving an additional 31 days of election opportunity after March 1, 2021. The qualified beneficiary has until March 31, 2021 to elect backdated to February 1, 2020.
- On February 26, a QB has a qualifying event (QE) with a COBRA start date of March 1, 2021. Starting March 1, 2021, they have 60 days to enroll with an immediate election notice. The QB is entitled to the extended election time frame.

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If the National Emergency end date is officially announced to be August 31, 2021, the Outbreak Period ends 60 days later, on October 30, 2021.

- On March 15, 2021, a QB has QE with a COBRA start date of April 1, 2021. The QB elects April 1, 2021 and submits payment for April. In May 2021, the QB then later terminates for non-payment. See the two examples below:
  - 12-month relief – From April 1, 2021 until March 31, 2022, the qualified beneficiary is allowed payment relief for 12 months. The final opportunity to submit May 2021 premium and any other lump sum payments will expire on April 30, 2022.
  - If the National Emergency end date is announced as September 30, 2021 and the 60-day tolling period is applied, the Outbreak Period would expire November 29, 2021. The final opportunity to submit May 2021 premium and any other lump sum payments will expire on December 29, 2021, after the 30-day grace periods for payments.

## Employer Next Steps

- We will continue to monitor this legislation, and report in more detail on any new law enacted.
- If you have any questions regarding this e-Alert, please contact our [Benefits Team](#).

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