



CHARDSNYDER™

Benefit Solutions

an Ascensus® company



COVID-19 Webinar Series: Federal Agency Guidance and How It Impacts COBRA

Featuring Darcy Hitesman
June 9, 2020

Today's Agenda

- Extension of Certain **Timeframes** for Employee Benefit Plans, Participants, and Beneficiaries Affected by the COVID-19 Outbreak, 26 CFR Part 54.
- <https://www.federalregister.gov/documents/2020/05/04/2020-09399/extension-of-certain-timeframes-for-employee-benefit-plans-participants-and-beneficiaries-affected>
- New Term -- Outbreak Period
 - Begins March 1, 2020; ends 60 days after announcement that COVID-19 emergency has ended (or other date announced by the agencies).



Temporary Timeframe Extensions



- **Not all time frames.**
- Focused on HIPAA Special Enrollment, COBRA, Claims Procedures, External Review.
 - EBSA Notice 2020-01 addresses other time frames (e.g., COBRA General Notice, SPD, SMM, adverse claim determination)
- Concerns for participants and beneficiaries – may have difficulty exercising their rights or filing or perfecting benefit claims.
- Concerns for group health plans – may have difficulty complying with notice requirements.
- Our focus today – COBRA Timeframes

COBRA Timeframes -- Notification



- Timeframes **to provide notice.**
 - Qualified beneficiaries to notify plan
 - Plan to notify qualified beneficiaries
- Timeframes run from end of the Outbreak Period.

Note: Can still provide notices before end of extension.

COBRA Timeframes – Elect & Pay



- COBRA includes timeframes **to elect coverage** and timeframes **to pay** for coverage.
- Look at current and as adjusted for Outbreak Period
- At least 60 days to elect.
 - “At least” – what does group health plan/COBRA procedures say?
 - Election period begins at end of Outbreak Period
- Time to pay initial applicable premiums.
 - 45 days to pay from election
 - Bring up to date
 - 45 days begins at end of Outbreak Period
- Time to pay monthly applicable premium.
 - 30 days
 - 30 days begins at end of Outbreak Period
 - Could have multiple months of unpaid premiums



COBRA Timeframes – Interim Coverage

- What happens to coverage during the interim?
- Normally, if you do not elect within the timeframe, you do not have coverage.
- Normally, if you do not pay within the timeframe, you do not have coverage (either it never begins, or it terminates).
- With extension, the interim timeframe could be many months long.

COBRA Timeframes – Interim Coverage

- Typical group health plan approach: from point at which eligibility is lost (e.g., qualifying event), coverage under group health plan stops/suspended until both elect and pay.
- With extension:
 - Could be a long time before elects and pays.
 - Could have some qualified beneficiaries elect at different times.
 - Could be a lot of money in order to elect – catch up past premiums due.

Note: Can still elect, can still pay, can still elect and pay any time prior to the end of the extension.

COBRA Timeframes – Potential Problems

- COBRA beneficiary initially entitled to same coverage had before qualifying event; later entitled to same coverage as others similarly situated.
- The longer the Outbreak Period, the more difficult to follow the rule regarding initial entitlement.
- Coverage changes.
- Plan terminates, plan changes from insured to self-insured, plan changes from self-insured to insured – may not be able to go back
 - Changes networks or formularies
 - Changes in cost sharing (deductible, copays, co-insurance)
 - Changes in structure (insured to self-insured; self-insured to fully insured)
 - Changes in applicable premium
- The longer the Outbreak Period, the more likely events get stacked.



COBRA Timeframes – Practical Problems

- How do you count the months? If eventually elected, do all of the months count to reduce COBRA period? What if extended past the months of available COBRA? What if want to do more?

Remember: COBRA premiums can be paid by third party.

Note: Nothing limits application to just traditional group health coverage (e.g., major medical); all group health plans subject to COBRA; also situations where not necessarily done well now (e.g., dental, vision, hearing, wellness, EAP, on-site medical clinic, etc.).

- How do you handle health FSAs?
- How do you handle group health plan with integrated HRAs?



CHARDSNYDER™

Benefit Solutions

an Ascensus® company

Questions

Contact your account team with
any additional questions.

thank you!