



DOL/IRS Examples of the Extension of Timeline

Please note these examples assume the National Emergency ends on *April 30, 2020* with the Outbreak Period ending on *June 29, 2020* (this would be 60-days after the end of the National Emergency).

- **The 60-day election period for COBRA continuation coverage under ERISA section.** Background: The COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985 as amended) continuation coverage provisions generally provide a qualified beneficiary a period of at least 60 days to elect COBRA continuation coverage under a group health plan.

Example: (i) Facts. Individual A works for Employer X and participates in X's group health plan. Due to the National Emergency, Individual A experiences a qualifying event for COBRA purposes as a result of a reduction of hours below the hours necessary to meet the group health plan's eligibility requirements and has no other coverage. Individual A is provided a COBRA election notice on April 1, 2020. What is the deadline for A to elect COBRA?

(ii) Conclusion. Individual A is eligible to elect COBRA coverage under Employer X's plan. The Outbreak Period is disregarded for purposes of determining Individual A's COBRA election period. The last day of Individual A's COBRA election period is 60 days after June 29, 2020, which is August 28, 2020.

- **The date for making COBRA premium payments.** Background: Plans are required to allow payment of premiums in monthly installments, and plans cannot require payment of premiums before 45 days after the day of the initial COBRA election. COBRA continuation coverage may be terminated for failure to pay premiums timely. Under the COBRA rules, a premium is considered paid timely if it is made not later than 30 days after the first day of the period for which payment is being made.

Example: (i) Facts. On March 1, 2020, Individual C was receiving COBRA continuation coverage under a group health plan. More than 45 days had passed since Individual C had elected COBRA. Monthly premium payments are due by the first of the month. The plan does not permit qualified beneficiaries longer than the statutory 30-day grace period for making premium payments. Individual C made a timely February payment, but did not make the March payment or any subsequent payments during the Outbreak Period. As of July 1, Individual C has made no premium payments for March, April, May, or June. Does Individual C lose COBRA coverage, and if so for which month(s)?

(ii) Conclusion. The Outbreak Period is disregarded for purposes of determining whether monthly COBRA premium installment payments are timely. Premium payments made by 30 days after June 29, 2020, which is July 29, 2020, for March, April, May, and June 2020, are timely, and Individual C is entitled to COBRA continuation coverage for these months if she timely makes payment. Under the terms of the COBRA statute, premium payments are timely if made within 30 days from the date they are first due. In calculating the 30-day period, however, the Outbreak Period is disregarded, and



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payments for March, April, May, and June are all deemed to be timely if they are made within 30 days after the end of the Outbreak Period. *Accordingly, premium payments for four months (i.e., March, April, May, and June) are all due by July 29, 2020. Individual C is eligible to receive coverage under the terms of the plan during this interim period even though some or all of Individual C's premium payments may not be received until July 29, 2020.* Since the due dates for Individual C's premiums would be postponed and Individual C's payment for premiums would be retroactive during the initial COBRA election period, Individual C's insurer or plan may not deny coverage, and may make retroactive payments for benefits and services received by the participant during this time.

Example: (i) Facts. Same facts as the above example. By July 29, 2020, Individual C made a payment equal to two months' premiums. For how long does Individual C have COBRA continuation coverage?

(ii) Conclusion. Individual C is entitled to COBRA continuation coverage for March and April of 2020, the two months for which timely premium payments were made, and Individual C is not entitled to COBRA continuation coverage for any month after April 2020. Benefits and services provided by the group health plan (e.g., doctors' visits or filled prescriptions) that occurred on or before April 30, 2020 would be covered under the terms of the plan. The plan would not be obligated to cover benefits or services that occurred after April 2020.

- **The date for individuals to notify the plan of a qualifying event or determination of disability for COBRA purposes.** Background: Notice requirements prescribe time periods for employers to notify the plan of certain qualifying events and for individuals to notify the plan of certain qualifying events or a determination of disability for COBRA purposes.