

IMPORTANT COVID-19 UPDATE

PUBLIC HEALTH EMERGENCY EXTENDED TO JANUARY 22, 2021

The Department of Health and Human Services (HHS) has again [extended the public health emergency declared](#) for the COVID-19 pandemic. On January 31, 2020, HHS initially declared a public health emergency (PHE) and the declaration was previously renewed in April and July, and has now again been extended. PHE declarations are generally effective for 90 days, and unless this most recent PHE declaration is terminated or extended further, it will expire on January 22, 2021.

Various group health plan (GHP) related deadlines are extended due to the PHE (unless the agencies announce a different end date for purposes of these extensions). Joint DOL and IRS [guidance](#) extends numerous deadlines by specifying that the “outbreak period” beginning March 1, 2020, and ending 60 days after the announced end of the PHE is to be disregarded for specified purposes. Said differently, the rules “freeze” timely deadlines for the duration of the outbreak period. This extension applies to the following:

- **COBRA.** Multiple COBRA deadlines have been extended until after the outbreak period ends, including (1) the 30- or 60-day deadline for employers or individuals to notify the plan of a qualifying event; (2) the 60-day deadline for individuals to notify the plan of a determination of disability; (3) the 14-day deadline for plan administrators to furnish COBRA election notices; (4) the 60-day deadline for participants to elect COBRA; and (5) the 45-day deadline in which to make a first premium payment and 30-day deadline for subsequent premium payments.
- **HIPAA Special Enrollment.** The 30- and 60-day HIPAA special enrollment periods (SEPs) are extended. Thirty-day SEPs may be triggered when eligible employees or dependents lose eligibility for other health plan coverage in which they were previously enrolled, and when an eligible employee acquires a dependent through birth, marriage, adoption, or placement for adoption. Sixty-day SEPs may be triggered by changes in eligibility for state premium assistance under the Children’s Health Insurance Program.

- **Claims Procedures and External Review Process.** The deadlines are extended for individuals to file claims for benefits, for initial disposition of claims, and for providing claimants a reasonable opportunity to appeal adverse benefit determinations under ERISA plans and non-grandfathered GHPs. Non-grandfathered GHP deadlines have been extended for providing a state or federal external review process following exhaustion of the plan's internal appeals procedures. (State deadlines may vary; plans using a federal external review process must allow at least four months after the receipt of a notice of adverse benefit determination in which to request an external review.) Other deadlines that apply for perfecting an incomplete request for review are also extended.

In addition, GHPs and responsible plan fiduciaries will not be treated as having violated ERISA if they act in good faith and furnish any notices, disclosures, or documents that would otherwise have to be furnished during the outbreak period "as soon as administratively practicable under the circumstances." The deadline for furnishing advance notice of modifications to the summary of benefits and coverage (SBC) has also been extended.

Keep in mind that some COVID-19-related guidance may have different end dates (for instance, testing and diagnostic services under FFCRA and the CARES Act), and the timing is still in flux. Conner Strong & Buckelew will provide alerts and updates as new information becomes available and pronouncements are made about the end of the national emergency and the PHE and as guidance is issued that otherwise extends, terminates, or modifies deadline relief.

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