

# Employee Benefits Alert

A Publication of the Stradley Ronon Employee Benefits Practice Group

Stradley Ronon Stevens & Young, LLP  
 2005 Market Street  
 Suite 2600  
 Philadelphia, PA 19103-7018  
 215.564.8000 Telephone  
 215.564.8120 Facsimile  
 www.stradley.com

With other offices in:  
 Washington, D.C.  
 New York  
 New Jersey  
 Illinois  
 Delaware



www.meritas.org

*Our firm is a member of Meritas. With 189 top-ranking law firms spanning 97 countries, Meritas delivers exceptional legal knowledge, personal attention and proven value to clients worldwide.*

Information contained in this publication should not be construed as legal advice or opinion or as a substitute for the advice of counsel. The enclosed materials may have been abridged from other sources. They are provided for educational and informational purposes for the use of clients and others who may be interested in the subject matter.

Copyright © 2020  
 Stradley Ronon Stevens & Young, LLP  
 All rights reserved.

Please click [here](#) to visit our **COVID-19 RESOURCE CENTER**

## DOL/IRS Extend Time Periods for Making COBRA and Other Elections

The Department of Labor and the IRS have issued regulations effective “immediately” that extend certain employee benefit/ERISA-related notice, election and COBRA premium payment periods in light of the COVID-19 National Emergency. In general, the period beginning March 1, 2020, and ending on the earlier of (1) 60 days after the end of the national emergency (as declared by the President), or (2) March 1, 2021, is ignored for purposes of these deadlines. The notice, election and payment periods will pick up again 60 days after the declared end of the national emergency.

If the national emergency as declared by the President continues for a while, the regulations will have a significant impact on plan administration, especially the administration of employer group health plans. In particular, COBRA qualifying individuals will have up to 120 days after the end of the national emergency to elect COBRA and even longer to pay COBRA premiums for the period of the national emergency.

Good plan governance and fiduciary practice require that these temporary extensions be

NOTICE OR ELECTION PERIOD	REGULAR TIME PERIOD	RELIEF PROVIDED
COBRA election period	Generally, begins at termination of group health plan coverage and ends not earlier than 60 days after notice to qualified beneficiary	Election period ends 120 days after end of national emergency. (*)
COBRA premium payments	First monthly payment typically due 45 days after election; subsequent payments typically due every 30 days	Premium payments for period of national emergency generally due no earlier than 90 days after end of national emergency. (*)
COBRA qualifying beneficiary notifying plan administrator of COBRA qualifying event	60 days after qualifying event	Notification period ends 120 days after end of national emergency
Plan administrator providing COBRA election notices	14 days after learning of qualifying event	14 days after learning of qualifying event, which could be as much as 74 days following end of national emergency.
HIPAA Special Enrollment Period due to loss of other coverage	30 days after loss of other coverage	Enrollment period extended to 90 days after end of national emergency. (*)
HIPAA Special Enrollment Period for new dependent due to marriage, birth or adoption	30 days after marriage, birth or adoption	Enrollment period extended to 90 days after end of national emergency. (*)
HIPAA Special Enrollment Period due to termination of Medicaid or CHIP eligibility	60 days after termination of Medicaid or CHIP	Enrollment period extended to 90 days after end of national emergency. (*)
HIPAA Special Enrollment Period due to becoming eligible for Medicaid or CHIP assistance with respect to group health plan coverage	60 days after being determined as eligible for assistance	Enrollment period extended to 90 days after end of national emergency. (*)
Filing of benefit claims and appeals of adverse benefit determinations	Various dates depending on type of claim	Deadline for claim or appeal is at least 60 days after end of national emergency. (*)
Filing of request for external review of adverse group health plan benefit determinations	Various dates depending on type of claim	Deadline for request is at least 60 days after end of national emergency. (*)

communicated to affected employees and beneficiaries. The only communication relief provided by the regulations is for COBRA notices, which may be delayed until after the end of the national emergency, although a lengthy delay is sure to sow confusion among COBRA eligible participants and beneficiaries. Employers and plan administrators should consider what to tell plan participants who have previously

received notices and are still within an election period.

(\* ) No later than March 1, 2021. The 60-day period is shortened for anyone whose election, etc., period began before March 1, 2020. In those cases, the 60-day period is reduced by the number of days in the election period that had passed before March 1, 2020.



[Barry L. Klein](#)  
215.564.8715  
[bklein@stradley.com](mailto:bklein@stradley.com)

Please do not hesitate to reach out to your Stradley Ronon contact, or to any member of Stradley's Coronavirus Task Force, with any questions and concerns you may have during this period.