



## **Department of Labor (DOL) and IRS Relief - Client FAQs**

### **What is the relief?**

- For group health plans subject to Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code, the relief allows additional time in which a group health plan sponsor or plan administrator can provide certain notices, disclosures, or other documents affecting COBRA continuation coverage, special enrollment periods, benefit claims, appeals of denied claims, and external review of certain claims. The deadline extension is through the “Outbreak Period”.

### **What is the Outbreak period?**

- The “Outbreak Period” is defined as the period beginning March 1, 2020 and ending 60 days after the date on which the federal government declares the COVID-19 national emergency has ended (which has yet to be determined) or another date announced by the DOL and Treasury in a future notice.
- The rule provides that the Outbreak Period may not be longer than one year.

### **To whom do these extensions apply?**

- The deadline extensions provided for in the relief applies to employee benefit plans, employers, participants, and beneficiaries subject to ERISA.

### **What is the impact to COBRA elections?**

- Any days within the “Outbreak Period” (starting March 1, 2020) are disregarded when calculating:
  - The 60-day election period for COBRA continuation;
  - The 60-day notification periods for dependent qualifying events or requests for Social Security disability determinations

### **What is the impact to COBRA payment deadlines?**

- Any days within the “Outbreak Period” (starting March 1, 2020) are disregarded when calculating any deadlines for making COBRA premium payments
  - Generally, 45 days following the date of election or 30 days following the first of the month.

### **What is the member experience if COBRA premiums are not made during the “Outbreak Period” (starting with payments due March 1, 2020)?**

- While the member cannot be denied from receiving *treatment* (the same as in any pending COBRA payment situation), the insurer is not obligated to issue a *payment* for that service until the premium payment is made.
- Members may be expected to pay out of pocket and file for reimbursement once the premium payment is made or the insurer can pay the claim and then request reimbursement from the member or the provider if the claim is paid and the member cancels for nonpayment.

### **What is the impact to members with deadlines prior to the “Outbreak Period”?**

- Any deadlines ending prior to March 1, 2020 are not affected by this guidance.
- For example, the following deadline expirations would prevail:
  - Cancellations for non-payment of the January 2020 premium (deadline date: January 31, 2020);
  - COBRA elections that must be made on or before February 29, 2020.



### **Are any COBRA members with deadlines during the “Outbreak Period” excluded by this relief?**

- The guidance does not specify that qualified beneficiaries **not impacted** by COVID-19 (e.g., divorce or legal separation, loss of dependent child status) should be excluded from these deadline extensions.

### **What is the impact to FSA/HRA Claims?**

- Any days within the “Outbreak Period” (starting March 1, 2020) are disregarded when calculating any of the following FSA/HRA plan periods:
  - Deadlines to submit claims subject to applicable claims procedures;
  - Deadlines to file appeals of adverse benefit determinations;
  - Deadlines to file external requests for review of adverse benefit determinations.

### **What is the impact to grace period and carryover deadlines?**

- We are engaged with outside counsel and with advisory agencies concerning clarification and to address concern about continuing ambiguities not directly addressed in the relief, such as:
  - Do “claims procedures” include any Healthcare FSA grace periods?
  - How are carryover calculations impacted?

### **What is the impact to Direct Bill/Retiree?**

- ERISA plans are subject to this guidance, which will include most retiree **group health plans** maintained by an employer.
- However, not all Direct Bill plans for which we provide services are subject to ERISA.
- In all instances, clients should consult ERISA legal counsel when determining how this relief applies to their benefit plan(s).

### **What is the impact for State Continuation?**

- While small employer plans are subject to ERISA, the continuation requirements for such plans are generally not.
- However, many states have issued guidance and similar proclamations to health plan insurers of those states affording similar deadline extensions.
- In all instances, clients should consult ERISA legal counsel when determining how this relief applies to their benefit plan(s).

### **What is the impact to Dependent Care FSA?**

- Dependent Care FSAs are not subject to ERISA.

### **What is the impact to Commuter?**

- Commuter plans are not subject to ERISA

### **How will HealthEquity support this relief?**

- A project team has been formed to determine the process and platform changes needed to support the relief. Additional information will be provided once available.