

March 1, 2021

Pandemic-Related Deadline Extensions Update

Last spring we published an [Alert](#) addressing the [Final Rule](#) published by the Internal Revenue Service and Department of Labor (the “Agencies”). In this Final Rule, and in [Notice 2020-01](#) and the [FAQs](#) published by the Employee Benefits Security Administration (“EBSA”), the Agencies addressed the extension of certain employee benefits deadlines. Employers will recall that plans and plan sponsors were directed to disregard the period from March 1, 2020 until 60 days after the COVID-19 National Emergency is declared over (the “Outbreak Period”) for deadlines related to certain notices, filings, and election, enrollment, and payment periods.

Although neither the National Emergency nor the Outbreak Period have ended, the initial period provided by Notice 2020-01 was subject to a one-year limit on the extension (prescribed by ERISA Section 518). Since the Outbreak Period began on March 1, 2020, the one-year limit was schedule to end on February 28, 2021. With many plans, plan sponsors, and individuals still struggling with the effects of the pandemic, the Agencies had yet to address how this one-year limit would apply to the Outbreak Period and these deadlines. However, on February 26, 2021, two days before one-year extension ended, the EBSA published [Notice 2021-01](#), providing updated guidance on the length of the deadline extensions set forth in Notice 2020-01.

Notice 2021-01 provides direction to plans and plan sponsors regarding any further extension of the deadlines listed in Notice 2020-01 past February 28, 2021. Specifically, the Notice states that the one-year limit on each deadline is specific to *each individual (or plan/plan sponsor) taking action*. Accordingly, each individual (or plan/plan sponsor) affected by any deadline listed in Notice 202-01 now has until *one year from the first day of he or she (or it) was first eligible for relief* or 60 days after the end of the Outbreak period, whichever is earlier, to take action. The Notice is clear that in no case can a disregarded period exceed one year.

The Notice provides several examples of how to apply the extension to specific relief periods for both individuals and plan sponsors. To illustrate an example for the purposes of this Alert, let’s assume a plan sent a COBRA election notice to a COBRA-qualified beneficiary on May 1, 2020. Under the new guidance, the beneficiary would have until the earlier of 60 days after the one-year extension period (ending on April 30, 2021), or 60 days after the end of the Outbreak Period (which would thus be 120 days after the end of the National Emergency), whichever is earlier, to elect COBRA.

As this new guidance may prove to be administratively burdensome for plans and plan sponsors, we suggest reaching out to your broker, compliance counsel, and COBRA administrator to ensure proper administration of these new deadlines. Please contact the experts at [Patriot Growth Insurance Services](#) for assistance with this or any challenging compliance issue.

Important Compliance Tips

- ✓ *Discuss these changes with your broker, compliance counsel, and COBRA Administrator to ensure compliance.*
 - ✓ *Update any previous extension notices with the new deadlines.*
 - ✓ *Review any plan disclosure notices to determine if such disclosures failed to provide accurate information regarding the time in which participants and beneficiaries were required to take action, thus making it necessary to reissue or amend.*
 - ✓ *Consider providing notices to individuals reaching the end of their relief period if the plan fiduciary knows or should know that an individual may lose certain rights, benefits, or protections at the end of the period.*
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