

COVID-19 Temporary Guidance for COBRA, FSAs and HRAs

In response to the March 13, 2020, National Emergency declaration, multiple agencies issued temporary guidance impacting benefit plan time frames. While this affects many ERISA plans (i.e., group health plans, disability, welfare plans, etc.), NueSynergy will address how the new guidance impacts COBRA, Flexible Spending Account (FSA) and Health Reimbursement Arrangement (HRA) plans.

Temporary Guidance Summary

The temporary guidance defines a new period called the "Outbreak Period," which is retroactive to **March 1, 2020**. **The Outbreak Period end date is 60 days after the National Emergency end date.** During this Outbreak Period, current COBRA, FSA and HRA timelines are extended. *(See tables below for details.)*

The temporary guidance affects the following:

- Date to notify a plan administrator of a qualifying event or disability
- Date for plan administrator to provide a COBRA election notice to beneficiary
- Date to elect COBRA
- Date to make COBRA premium payments
- Date to submit a runout claim for FSA or HRA reimbursement

COBRA Qualifying Event and Initial Notices

Current Rule

- Once a beneficiary reports a qualifying event, the employer must notify the COBRA plan administrator (NueSynergy) within 30 days of the event.
- Within 14 days of getting the employer's notice, the COBRA administrator must send a COBRA election notice to the beneficiary.

New Temporary Guidance

- If notification requirements cannot be met, a rule of reasonableness and good faith is applied. Guidance suggests emails and texts be considered to communicate with plan participants / beneficiaries.
- Employers should stay the course and maintain internal notification procedures and timelines.

COBRA Election

Current Rule

- Once a beneficiary has a qualified event (e.g., loss of job, reduction in hours, death of covered employee, etc.), he or she has 60 days to elect COBRA.

New Temporary Guideline

- Initial election period is extended to 60 days after the last day of the Outbreak Period.

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COBRA Payment

Current Rule

- Once a beneficiary elects coverage, he or she has 45 days to make payment retroactive to the last day of employer coverage.
- Active COBRA participants have 30 days from the first of each month to make payment for continued coverage.

Failure to pay on time can result in coverage termination for the beneficiary.

New Temporary Guideline

- Active COBRA participants have 30 days from the last day of the Outbreak Period to submit retroactive payments to have coverage.

FSA and HRA Runout Period

Current Rule

- FSA and HRA plans have defined claim “runout periods,” which are determined by a group or company HR department during the original plan setup. The “runout period,” often ranging from 0 to 90 days, allows a participant additional time to submit claims for expenses incurred during the original plan year.

New Temporary Guideline

- If a company's FSA or HRA plan or plan runout period ends on March 1, 2020, through the end of the Outbreak Period:
 - Participants will now have the entire Outbreak Period plus 60 days to submit runout claims for expenses incurred in the original plan year.

COBRA Example

- An employee is terminated March 1, 2020.
- The example Outbreak Period end date is July 31, 2020.
 - Rather than elect COBRA by April 29, 2020, under the traditional 60-day timeline, the employee can elect coverage up to September 29, 2020.
 - Premium payments must be paid retroactive to March 1, 2020, for coverage to be activated. Coverage does not start until payment is processed.



**The above timeline is for illustration purposes only.*

FSA and HRA Example

- A company's 2019 FSA or HRA plan, ending December 31, 2019, has a 90-day runout period for claims to be submitted by March 31, 2020.
- The example Outbreak Period end date is July 31, 2020.
 - The FSA or HRA plan participant could submit a runout claim for reimbursement thru September 29, 2020, (60 days after the last day of the Outbreak Period).



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