

Claim Filing Runout Period Extension

On Wednesday, April 29, the Employee Benefits Security Administration, Department of Labor, Internal Revenue Service, and Department of the Treasury (the “Agencies”) released a final rule (“final rule,” or “rule”) which altered and extended the timelines tied to certain benefit plans. The scope of the rule covers HIPAA, COBRA, and claim filing deadlines. A copy of the final rule can be found [here](#).

The rule defines March 1, 2020 as the first day of what the Agencies are calling the “National Emergency” period. The Agencies are then defining what they call the “Outbreak Period” as the period of time from the first day of the National Emergency until 60 days following the date that is announced as the last day of the National Emergency period (this date has not yet been announced). The rule extends several timeframes that will affect employers, participants, and administrators.

Claims Filing and Appeals Deadline

Employee benefit plans have established timeframes within which participants can file claims previously incurred. The rules extend the plan’s deadline to file a benefit claim and to file an appeal under the plan’s claims procedures by disregarding the Outbreak Period. The Final Rule announced by the Agencies provided extensions to deadlines tied to benefit plans. These extensions cover HIPAA Special Enrollment, COBRA, and claims filing. The Agencies have made it clear that the claim filing extensions do apply to any Health FSA, Limited Purpose FSA, and HRA (but not Dependent Care and Commuter Accounts). This means that any plan year which was in its run-out period on or after March 1, 2020 will have an extended period of time to submit expenses incurred during the plan year, though the end date to submit claims will not be defined until the National Emergency is declared to be over.

Sentinel Benefits will automatically extend the runout period for any plan that we currently administer and allow additional claim filings according to these guidelines.

UPDATE 3/3/2021:

Last week, the US Department of Labor’s Employee Benefits Security Administration (EBSA) issued [Disaster Relief Notice 2021-01](#). This Notice addressed lingering questions from guidance issued [last year](#) about extensions to certain benefit plan deadlines. Among the extensions are timelines related to COBRA and claim filing.

Here is a brief summary of the guidance issued in 2020:

- Deadlines that would have taken place on or after March 1, 2020 were suspended until sixty days following the end of the National Emergency (defined as the Outbreak Period).
- The guidance from last year suspended many timelines related to reimbursement plan claims filing, COBRA elections, and COBRA premium payments.
- These extensions were mandatory; there was no opt-out option for employers.

As of March 1, 2021, the National Emergency has not been declared over and the Outbreak Period is still in effect. However, the extensions were not permitted to exceed one year. Industry experts were waiting on the additional guidance issued last week to understand how this one-year limit was to be applied. EBSA Disaster Relief Notice 2021-01 delivered this guidance, albeit mere days before the one-year expiration was up. This latest relief clarified that the deadlines will be disregarded until the *earlier of* (a) one year from the date the plan or individual was first eligible for relief, or (b) the end of the Outbreak Period. This means that, as opposed to all deadlines kicking in after one year from March 1, 2020, each participant or plan has their/its own personal rolling deadline from the date of their/its own event.

Here are some examples:

- An individual experiences a COBRA Qualifying Event in which the last day to elect COBRA would have been June 1,

2020. Since this Qualifying Event occurred after the Outbreak Period began on March 1, 2020, the 60-day window for this individual to elect COBRA coverage would not kick in until after the Outbreak Period has ended. With the latest guidance, we now know that this individual will be required to make their COBRA election no later than June 1, 2021. The only exception to this would be if the Outbreak Period ends prior to June 1, 2021, in which case the 60-day COBRA clock to elect coverage would kick in on the first day following the end of the Outbreak period.

- A Healthcare FSA plan runs from August 1, 2019 through July 31, 2020 and has a 90-day claims run-out period. A run-out period is a period of time after the end of the plan year when participants can submit claims incurred during the plan year. Since the run-out period should have started after the Outbreak Period began on March 1, 2020, the run-out period will not kick in until the Outbreak Period has ended. With the latest guidance, we now know that participants in the plan will have 90 days to submit claims incurred by July 31, 2020 (absent the plan electing a grace period extension) starting on August 1, 2021. The only exception to this would be if the Outbreak Period ends prior to August 1, 2021, in which case the plan's run-out period would kick in on the first day following the end of the Outbreak period.
- A Healthcare FSA plan runs from January 1, 2019 through December 31, 2019 and has a 90-day claims run-out period. The initial run-out period occurred January 1, 2020 through February 29, 2020 before being paused by the Outbreak Period on March 1, 2020. Now that one year has elapsed, the remainder of the runout period will resume and end on March 31, 2021. The 2020 runout period for the same plan is currently paused and the 90-day clock for the full run-out period will start the *earlier* of January 1, 2022 or the end of the Outbreak Period.

As a follow up to this latest guidance, the Sentinel Team is working on the following items as next steps:

1. For employers to which we provide COBRA administration services, we will allow Qualified Beneficiaries to take advantage of the 12-month extensions. This means that COBRA elections and payments can be made and accepted for up to 12-months following the due date of that election and/or payment for that specific Qualified Beneficiary. We will also communicate the appropriate timelines to current and future Qualified Beneficiaries. No action is needed by the employer for these extensions to be applied.
2. For employers to which we provide Flexible Spending Account (FSA) and Health Reimbursement Arrangement (HRA) administration services, we will automatically extend claims run-out periods for plans whose run-out periods began on or after March 1, 2020 to begin 12 months following the date that the run-out period would have originally begun. No action is needed by the employer for these extensions to be applied. Employers will, however, want to communicate these extended timelines to enrolled employees who can take advantage of the extensions.

If you have specific questions regarding the information above, please reach out to your Sentinel Benefits Health & Welfare or COBRA Account Manager.