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## The DOL and the IRS Issue New COBRA Notices and Extensions

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### Why?

In response to the National Emergency declared by President Trump on 3/1/2020, the DOL's Employee Benefits Security Administration (EBSA) is taking efforts to help workers who have had a reduction in hours and could be at risk for unnecessary high costs.

### What?

COBRA timeframes, Special Enrollment timeframes, as well as Claim Procedure and External Review Process timeframes, have all been extended after the Outbreak Period ends, which is determined to be 60 days after the National Emergency is declared over. As of this writing, the National Emergency has been ordered through 7/25/2020. That means the Outbreak Period would end on 9/23/2020. So essentially, the "Qualifying event" is the date the Outbreak Period ends for these timeframes, not the date of the actual event or loss of coverage.

For example, in the case of a termination of employment on 3/15/2020, that employee would have until 11/22/2020 to elect COBRA. Remember, the final date to elect COBRA is a 60 day extension from the end of the Outbreak period. For an employee who previously declined group health plan coverage and had a baby on April 17, 2020, they have a special enrollment period and have until October 23, 2020 (30 days after Outbreak period), to enroll herself and her child in coverage. These extensions are effective back to 3/1/2020.

### Who?

The Joint Notice technically applies only to plans subject to ERISA and the Code. However, it appears HHS intends to adopt a policy to extend similar timeframes to non-federal governmental group health plans and insurers. HHS encourages governmental group health plans to provide similar relief.

### When?

These extensions are unprecedented, and employers and plan administrators will need to take steps to

ensure that participants understand the new rules. Employers and plan administrators may want to consider supplementing and modifying COBRA forms, special enrollment notices, and summary plan descriptions, to reflect these extensions. Although it is not required, we feel it is the responsibility of the plan administrators to notify plan participants and their beneficiaries of their COBRA rights. Below you can find model notices from the DOL, along with an FAQ, that you can use to help communicate with your employees. You should work with your COBRA vendor to help notify plan participants that would be eligible. Please note that providing these notices will NOT necessarily protect you from potential COBRA related litigation.

[COBRA model notices](#)

[Frequently Asked Questions](#)

For more information or questions regarding how these notices and extensions could impact your organization, contact Dave Barchet at [Dave.Barchet@findley.com](mailto:Dave.Barchet@findley.com) or [216.875.1914](tel:216.875.1914) or Blake Babcock at [Blake.Babcock@findley.com](mailto:Blake.Babcock@findley.com) or [216.875.1904](tel:216.875.1904)