# COBRA Changes Due to COVID-19

On March 13, 2020, President Trump issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and by separate letter made a determination, under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., that a national emergency exists nationwide beginning March 1, 2020, as the result of the COVID-19 outbreak (the National Emergency).

Certain timeframes have been extended under the Employee Retirement Income Security Act and the Internal Revenue Code for group health plans (including COBRA coverage) during the COVID-19 National Emergency.

As a result of that determination, the Federal Emergency Management Agency (FEMA) issued emergency declarations for every state, territory, and possession of the United States.

**Assumed dates (subject to change)**

National Emergency ends April 30, 2020.

Outbreak Period ends June 29, 2020 (60 days after the end of the National Emergency)

**CHANGES TO THE COBRA ELECTION DEADLINE**

COBRA continuation coverage provisions generally provide a qualified beneficiary a period of at least 60 days to elect COBRA continuation coverage under a group health plan.

Plans must now disregard the National Emergency Period (currently March 1, 2020-April 30, 2020) when determining COBRA election and payment timelines.

Under the new temporary rules, the individual has 60 days from the end of the Outbreak Period (currently June 29, 2020) to elect COBRA. There are different Outbreak Period end dates for 11 different parts of the country. You should check with your plan for exact dates and new deadlines.

**Example 1:** Individual A works for Employer X and participates in X’s group health plan. Due to the National Emergency, Individual A experiences a qualifying event for COBRA purposes as a result of a reduction of hours below the hours necessary to meet the group health plan’s eligibility requirements and has no other coverage.

Individual A is provided a COBRA election notice on April 1, 2020. What is the deadline for A to elect COBRA?

Individual A is eligible to elect COBRA coverage under Employer X’s plan. The Outbreak Period is disregarded for purposes of determining Individual A’s COBRA election period. The last day of Individual A’s COBRA election period is **60 days after June 29, 2020, which is August 28, 2020.**

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 **PREMIUM PAYMENT DUE DATES**

Under COBRA rules, the individual has 45 days from the date of election to make the first COBRA premium payment and 30 days to make subsequent payments.

Under the new temporary rules, the Outbreak Period is disregarded when determining if payments are timely.

**Example:**

On March 1, 2020, Individual C was receiving COBRA continuation coverage under a group health plan.

More than 45 days had passed since Individual C had elected COBRA. Monthly premium payments are due by the first of the month. The plan does not permit qualified beneficiaries longer than the statutory 30-day grace period for making premium payments.

Individual C made a timely February payment, but did **not make the March payment or any subsequent payments during the Outbreak Period.** As of July 1, Individual C has made no premium payments for March, April, May, or June.

**Does Individual C lose COBRA coverage, and if so for which month(s)**?

In this Example, the individual does not lose COBRA coverage. Since the Outbreak Period is disregarded when determining whether monthly COBRA are timely, payments made by **30 days after June 29, 2020,** which is July 29, 2020, for March, April, May, and June 2020, **are timely**, and Individual C is entitled to COBRA continuation coverage for these months if she timely makes payment.

Under the terms of the COBRA statute, premium payments are timely if made within 30 days from the date they are first due. **In calculating the 30-day period, however, the Outbreak Period is disregarded**, and payments for **March, April, May, and June are all deemed to be timely if they are made within 30 days after the end of the Outbreak Period.** Accordingly, premium payments for four months (i.e., March, April, May, and June) are all due by July 29, 2020. Individual C is eligible to receive coverage under the terms of the plan during this interim period even though some or all Individual C’s premium payments may not be received until July 29, 2020. Since the due dates for Individual C’s premiums would be postponed and Individual C’s payment for premiums would be retroactive during the initial COBRA election period, Individual C’s insurer or plan may not deny coverage, and may make retroactive payments for benefits and services received by the participant during this time.

The above information is believed to true based on Department of Labor guidance. These rules are subject to change. Check the Department of Labor (www.dol.gov) website for updates.