

COBRA Election Deadlines Extended Due to COVID-19 Pandemic

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The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) permits individuals and their family who would otherwise be dropped by an employer’s health plan for a variety of qualifying reasons to elect continuation of coverage for a period of time by making payments equaling 102 percent of the monthly cost of the health coverage each month.

Qualifying events that entitle an individual to COBRA continuation coverage include termination of employment or reduction in work hours resulting in elimination of that individual from being eligible for coverage under an employer’s healthcare plan.

COBRA sets deadlines as to when an employer must notify an individual of their healthcare continuation rights under COBRA and when an individual must elect continuation coverage. Normally, an individual has 60 days from the date of receipt of a COBRA notice to elect COBRA, and another 45 days after the date of the COBRA election to make the initial required COBRA premium payments. Failure to elect COBRA within the timeframes or failure to pay timely premiums may disqualify individuals from COBRA coverage.

The newly implemented rules from the IRS and DOL extend the above deadlines by requiring plans to disregard the compliance deadlines from March 1, 2020, until 60 days after the announced end of the National Emergency (known as the “Outbreak Period”). The Outbreak Period is defined as the period from March 1, 2020 until 60 days after the end of the COVID-19 national emergency (which has yet to be determined) or such other date as the DOL and IRS decide upon.

Once an individual receives his or her timely COBRA election notice, the applicable COBRA deadlines are now extended until after the Outbreak Period ends. For COBRA election purposes, this means if an individual receives the election notice any time after March 1, 2020, the 60-day election period does not begin until the Outbreak Period has ended.

To clarify, the Joint Notice uses April 29, 2020 as the sample date for lifting of the national emergency, and June 29, 2020 as the sample last day of the Outbreak Period. Using this sample end date, an individual with a COBRA qualifying event would have 120 days, or until August 28, 2020 to elect COBRA coverage retroactive to the date of eligibility. At that point, an individual has an additional 45 days to make the required COBRA premium payments.

The extension will require a plan administrator to advise an inquiring provider of the potential for coverage and to hold those expenses until an election is made. For most public employers, this will be the responsibility of a third-party administrator. However, employers should be aware of the implications of the IRS/DOL’s extension of COBRA election periods, and the additional time periods allotted to eligible employees for purposes of electing COBRA coverage. Employers should review all administrative documentation pertaining to COBRA,

including model COBRA notice forms, to reflect the extended deadlines provided under the Joint Notice.

The lawyers at Campbell Durrant stand ready to assist in the administration of this new Joint Notice and are available to answer your related questions.