

# COMPLIANCE BULLETIN



## Health Plan Deadline Extensions Related to COVID-19 Pandemic Ending Soon

Several key deadlines for employer-sponsored health plans were extended during an “outbreak period” associated with the COVID-19 national emergency. Now that the COVID-19 national emergency has ended, these deadline extensions are also coming to an end. According to [FAQs](#) issued by the Departments of Labor, Health and Human Services, and the Treasury (Departments), the outbreak period will end on **July 10, 2023**.

During the outbreak period, certain health plan deadlines were extended to give individuals more time to make decisions about their health coverage. The extensions applied to deadlines for:

- Requesting special enrollment under HIPAA;
- Electing COBRA continuation coverage and paying COBRA premiums; and
- Submitting claims for health plan benefits and appealing denied claims.

These deadline extensions end when the outbreak period is over or, if earlier, after an individual has been eligible for a specific deadline extension for one year.

### Action Steps

Once the outbreak period ends on July 10, 2023, health plans can go back to their normal pre-pandemic deadlines. However, any days during the outbreak period must still be disregarded to determine the deadline that applies to a specific individual. In addition, employers should ensure that any plan communications regarding deadlines are updated for the end of the outbreak period. To help prevent employees from missing crucial deadlines, employers should clearly communicate key deadlines to impacted individuals in advance.

### Highlights

- During the COVID-19 pandemic, certain health plan deadlines were extended by disregarding an “outbreak period.”
- The outbreak period will end on July 10, 2023.
- Once the outbreak period ends, health plans can go back to their normal pre-pandemic deadlines.
- Employers should ensure that any descriptions of plan deadlines are updated to reflect this change.

### FAQ Guidance

- The Departments issued FAQs to address how certain health plan requirements related to the COVID-19 pandemic will change when the emergency periods end.
- The FAQs include examples to explain how the deadline extensions should be applied as the outbreak period comes to an end.



## Background

Several key deadlines related to employer-sponsored group health plans were extended during the COVID-19 outbreak period. The outbreak period began in March 2020, when former President Donald Trump declared a national emergency due to the COVID-19 pandemic, and it continues until 60 days after the end of the COVID-19 national emergency (or such other date as announced by the federal government).

On Jan. 30, 2023, the Biden administration announced its plan to end the COVID-19 national emergency on May 11, 2023. The Departments' FAQs provide that the outbreak period will end on **July 10, 2023** (60 days after May 11, 2023). On April 10, 2023, President Joe Biden signed a bipartisan [resolution](#) ending the COVID-19 national emergency early. The Departments have informally indicated that the resolution does not affect the outbreak period's end date and that the end date of July 10, 2023, still applies.

## Deadline Extensions

During the outbreak period, some key deadlines for employee benefit plans and participants were extended. Deadline extensions that apply during the outbreak period include the following:

- **HIPAA special enrollment**—The 30-day period (or 60-day period, if applicable) to request special enrollment.
- **COBRA notice and premium payment deadlines**—The 60-day period to elect COBRA coverage; the date for making COBRA premium payments (generally at least 45 days after the day of the initial COBRA election, with a grace period of at least 30 days for subsequent premium payments); and the date for individuals to notify the plan of a qualifying event or disability determination (generally 60 days from the date of the event, loss of coverage or disability determination).
- **Claims and appeals deadlines**—The deadlines to file a benefit claim, file an appeal of an adverse benefit determination or request an external review of a claim under the plan's claims and appeals procedures.

**These deadline extensions end when the outbreak period is over** or, if earlier, after an individual has been eligible for a specific deadline extension for one year.

## Examples

The Departments' FAQs provide the following examples to show how health plans and issuers should apply the deadline extensions as the outbreak period comes to an end. These examples assume that the outbreak period will end July 10, 2023, as anticipated, and that the group health plan is using the minimum time frame that the law permits for individuals to complete certain elections or other actions. However, federal law does not prohibit a group health plan from allowing for longer timeframes for employees, participants or beneficiaries to complete these actions, and the Departments encourage group health plans to do so.

### Example 1 (Electing COBRA)

*Facts:* Individual A works for Employer X and participates in Employer X's group health plan. Individual A experiences a qualifying event for COBRA purposes and loses coverage on April 1, 2023. Individual A is eligible to elect COBRA coverage under Employer X's plan and is provided a COBRA election notice on May 1, 2023. What is the deadline for Individual A to elect COBRA?

*Conclusion:* The last day of Individual A's COBRA election period is 60 days after July 10, 2023 (the end of the outbreak period), which is Sept. 8, 2023.



## Example 2 (Electing COBRA)

*Facts:* Same facts as Example 1, except the qualifying event and loss of coverage occur on May 12, 2023, and Individual A is eligible to elect COBRA coverage under Employer X's plan and is provided a COBRA election notice on May 15, 2023. What is the deadline for Individual A to elect COBRA?

*Conclusion:* Because the qualifying event occurred on May 12, 2023, after the end of the COVID-19 national emergency period but during the outbreak period, the deadline extensions still apply. The last day of Individual A's COBRA election period is 60 days after July 10, 2023 (the end of the outbreak period), which is Sept. 8, 2023.

## Example 3 (Electing COBRA)

*Facts:* Same facts as Example 1, except the qualifying event and loss of coverage occur on July 12, 2023, and Individual A is eligible to elect COBRA coverage under Employer X's plan and is provided a COBRA election notice on July 15, 2023. What is the deadline for Individual A to elect COBRA?

*Conclusion:* Because the qualifying event occurred on July 12, 2023, after the end of both the COVID-19 national emergency period and the outbreak period, the deadline extensions do not apply. The last day of Individual A's COBRA election period is 60 days after July 15, 2023, which is Sept. 13, 2023.

## Example 4 (Paying COBRA Premiums)

*Facts:* Individual B participates in Employer Y's group health plan. Individual B has a qualifying event and receives a COBRA election notice on Oct. 1, 2022. Individual B elects COBRA continuation coverage on Oct. 15, 2022, retroactive to Oct. 1, 2022. When must Individual B make the initial COBRA premium payment and subsequent monthly COBRA premium payments?

*Conclusion:* Individual B has until 45 days after July 10, 2023 (the end of the outbreak period), which is Aug. 24, 2023, to make the initial COBRA premium payment. The initial COBRA premium payment would include the monthly premium payments for October 2022 through July 2023. The premium payment for August 2023 must be paid by Aug. 30, 2023 (the last day of the 30-day grace period for the August 2023 premium payment). Subsequent monthly COBRA premium payments would be due on the first of each month, subject to a 30-day grace period.

## Example 5 (Special Enrollment Period)

*Facts:* Individual C works for Employer Z. Individual C is eligible for Employer Z's group health plan but previously declined participation. On April 1, 2023, Individual C gave birth and would like to enroll herself and the child in Employer Z's plan. However, open enrollment does not begin until Nov. 15, 2023. When may Individual C exercise her special enrollment rights?

*Conclusion:* Individual C and her child qualify for special enrollment in Employer Z's plan as early as the date of the child's birth, April 1, 2023. Individual C may exercise her special enrollment rights for herself and her child until 30 days after July 10, 2023 (the end of the outbreak period), which is Aug. 9, 2023, as long as she pays the premiums for the period of coverage after the birth.

## Example 6 (Special Enrollment Period)

*Facts:* Same facts as Example 5, except that Individual C gave birth on May 12, 2023. When may Individual C exercise her special enrollment rights?

*Conclusion:* Individual C and her child qualify for special enrollment in Employer Z's plan as of the date of the child's birth, May 12, 2023. Because Individual C became eligible for special enrollment on May 12, 2023, after the end of the COVID-



19 national emergency period but during the outbreak period, the deadline extensions still apply. Individual C may exercise her special enrollment rights for herself and her child until 30 days after July 10, 2023 (the end of the outbreak period), which is Aug. 9, 2023, as long as she pays the premiums for the period of coverage after the birth.

### **Example 7 (Special Enrollment Period)**

*Facts:* Same facts as Example 5, except that Individual C gave birth on July 12, 2023. When may Individual C exercise her special enrollment rights?

*Conclusion:* Individual C and her child qualify for special enrollment in Employer Z's plan as of the date of the child's birth, July 12, 2023. Because Individual C became eligible for special enrollment on July 12, 2023, after the end of both the COVID-19 national emergency period and the outbreak period, the deadline extensions do not apply. Individual C may exercise her special enrollment rights for herself and her child until 30 days after July 12, 2023, which is Aug. 11, 2023, as long as she pays the premiums for the period of coverage after the birth.