



IRS extends COBRA election, premium payment deadlines

The IRS has clarified the application of certain extensions for the election of COBRA coverage and payment of COBRA premiums due to the COVID-19 emergency. The notice also addresses the interaction of COBRA continuation coverage under the Emergency Relief Notices with the COBRA premium assistance available for certain individuals under the American Rescue Plan Act of 2021 (ARP).

Guidance and application of extensions. COBRA permits qualified beneficiaries who lose coverage under a group health plan to elect continuations health coverage for a 60-day period after receipt of a COBRA election notice. The initial premium can not be due earlier than 45 days after that election.

Certain extensions were granted due to the COVID-19 (Coronavirus) emergency, and issued in the Joint Notification of Extensions of Certain Timeframes for Employee Benefit Plan, Participants, and Beneficiaries Affected by the COVID-19 Outbreak. Additional guidance was provided by EBSA Disaster Relief Notice 2021-01. Under these Emergency Relief Notices, up to one year must be disregarded in determining the due dates for individuals to elect COBRA continuation coverage and pay COBRA premiums during the outbreak period. This notice clarifies that the disregarded period for an individual to COBRA continuation coverage and the disregarded period for the individual to make initial and subsequent COBRA premium payments generally run concurrently.

For example, if an individual elected COBRA continuation coverage out of the initial 60-day COBRA election timeframe, that individual generally will have one year and 105 days (60 days plus 45 days) after the date the COBRA notice was provided to make the initial COBRA premium payment. If an individual elected COBRA continuation coverage within the initial 60-day COBRA election timeframe, that individual will only have one year and 45 days after the date of the COBRA election to make the initial COBRA premium payment.

Applying the disregarded periods in this way means that individuals who delay electing COBRA may not have more than one year of total disregarded time for the COBRA election and initial COBRA payment. For example, a taxpayer cannot delay electing COBRA continuation coverage for six months and then add another full year to the disregarded period for purposes of determining the deadline for making the initial COBRA premium payment (resulting in a total of 18 months of disregarded time for both the COBRA election and initial COBRA payment).

Transition relief. To avoid inequitable outcomes, in no event will an individual be required to make the initial premium payment before November 1, 2021, even if November 1, 2021 is more than one year and 105 days after the date the election notice was received, provided that the individual makes the initial premium payment within one year and 45 days after the date of the election. This transition relief does not result in an individual having a disregarded period related to a particular COBRA timeframe that is more than one year. This transition relief is an exception to the general rule that disregarded periods for COBRA elections and initial COBRA payments run concurrently with respect to each individual.

ARP COBRA premium assistance. On March 11, 2021, the ARP was enacted, providing for temporary COBRA premium assistance for certain “Assistance Eligible Individuals” for periods of coverage beginning on or after April 1, 2021, through periods of coverage beginning on or before September 30, 2021. The extensions of the timeframes under the Emergency Relief Notices do not apply to the periods for providing the required notice of the ARP extended election period or for electing COBRA continuation coverage with COBRA premium assistance under the ARP.

Source: Spencer's Compliance Guide
IRS Notice 2021-58, I.R.B. 2021-43, October 25, 2021.

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