

Webinar Q & A Follow-Up

COBRA & Additional Benefits Compliance

During COVID-19 | Sept. 2020

1. During the webinar it was stated that only Medical and Dental are covered by COBRA. To clarify, Medical, Dental, Vision, HRA, FSA are all subject to COBRA.

2. COBRA allows for reinstatement of coverage once an election has been made AND premiums paid. We never advise clients to reinstate coverage until they receive payment. My understanding of the new rules is this is not changed and only extends the period in which payment can be made.

COBRA does not need to be reinstated until election is made and the first premiums are paid. After the first payment, plans must continue to provide coverage to COBRA participants during the Outbreak Period even if they miss premium payments during that time; however, if a participant fails to pay the premiums once they become due after the end of the Outbreak Period, the plan can retroactively terminate coverage for the months the premiums were unpaid. It is unclear from the new regulations how carriers and vendors will handle missed payments and employers should reach out to their carriers or vendors for any needed guidance.

3. If a COBRA beneficiary completes the election form but never sends payment and does not return phone calls from the employer, are they considered enrolled and for how long?

As stated above, coverage under COBRA does not need to be reinstated until the first month's premium has been paid. Once the payment has been made and coverage reinstated, they are considered enrolled. In light of COVID-19, the DOL and the IRS have provided COBRA participants additional time to pay their COBRA premiums if the end of their grace period falls within the "Outbreak Period" (i.e. after March 1, 2020). This means that if a payment was due during the "Outbreak Period," the participant will have 30 days (or 45 days, if applicable) after the end of the Outbreak Period to make their payments.

4. If a beneficiary elects COBRA, pays for a few months and then stops paying, can they be terminated from coverage during the pandemic?

In light of COVID-19, the DOL and the IRS have provided COBRA participants additional time to pay their COBRA premiums if the end of their grace period falls within the "Outbreak Period" (i.e. after March 1, 2020). This means that if a payment was due during the "Outbreak Period," the participant will have 30 days (or 45 days, if applicable) after the end of the Outbreak Period to make their payments. If the COBRA enrollment was effective by the beneficiary, he/she has coverage through the entire outbreak period and thereafter has the specified extra time to retro pay for the coverage.

5. Below is the options suspension language that can be included in the COBRA notice regarding months for which payment has not been received, can we still use this language?

[If Plan suspends coverage during grace period for nonpayment, include and modify as necessary: However, if you pay a periodic payment later than the first day of the coverage period to which it applies, but before the end of the grace period for the coverage period, your coverage will be suspended as of the first day of the coverage period and then retroactively reinstated (going back to the first day of the coverage period) when the periodic payment is received. This means that any claim you submit for benefits while your coverage is suspended may be denied and may have to be resubmitted once your coverage is reinstated.]

In light of the new temporary regulations at issue here, you can't use the above suspension language at all.