



COBRA and the Extension of Time Frames Due to the Coronavirus

1. Generally, COBRA allows 60 days to elect coverage and 45 days to pay the premiums after the initial election. There is a 30-day grace period.
2. **From March 1, 2020 to 60 days past the end of the National emergency, this “outbreak period” must be discarded and does not count when determining timely COBRA elections or payments. In short, this period is carved-out.**

This includes:

- a. The 60-day election period for COBRA continuation coverage under ERISA section 605 and Code section 4980B(f)(5)
 - b. The date for making COBRA premium payments pursuant to ERISA section 602(2)(C) and (3) and Code section 4980B(f)(2)(B)(iii) and (C),10
3. Examples: **Assumes the National Emergency ends on April 30, 2020, and therefore the outbreak period is 60 days past April 30 and ends on June 29** and is carved out and does not count.
 - a. A works for Employer X and participates in 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? In Example 1, 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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- b. 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)?

The Outbreak Period is disregarded for purposes of determining whether monthly COBRA premium installment payments are timely. Premium payments made by 30 days after June 29, 2020, *which is July 29*, for March, April, May, and June, are timely, and Individual C is entitled to COBRA continuation coverage for these months if they make timely payments.

- c. Same facts as previous example. By July 29, 2020, Individual C made a payment equal to two months' premiums. For how long does Individual C have COBRA continuation coverage?

(ii) Conclusion. Individual C is entitled to COBRA continuation coverage for March and April of 2020, the two months for which timely premium payments were made, and Individual C is not entitled to COBRA continuation coverage for any month after April 2020. Benefits and services provided by the group health plan (e.g., doctors' visits or filled prescriptions) that occurred on or before April 30, 2020 would be covered under the terms of the plan. The plan would not be obligated to cover benefits or services that occurred after April 2020.

Tune in to our COBRA and the Coronavirus Webinar Thursday, May 7 @ 2 p.m.

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