

# COMPLIANCE OVERVIEW



## Extended Participant Deadlines

The initial relief provided participants in ERISA-covered plans with additional time to comply with certain deadlines affecting COBRA continuation coverage, special enrollment periods, claims for benefits, appeals of denied claims and external review of certain claims. Specifically, the relief extended:

- **HIPAA time frames:** The 30-day period (or 60-day period, if applicable) to request special enrollment.
- **COBRA time frames:** The 60-day period for qualified beneficiaries to elect COBRA coverage; the date for making COBRA premium payments (which is generally at least 45 days after the day of the initial COBRA election, and 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 (in general, at least 60 days from the date of the event, loss of coverage, or disability determination).
- **Claims procedures time frames:** The date within which individuals may file a benefit claim under the plan's claims procedure, and the date within which claimants may file an appeal of an adverse benefit determination under the plan's claims procedure.
- **External review process time frames:** The date within which claimants may file a request for an external review after receipt of an adverse benefit determination or final internal adverse benefit determination, and the date within which a claimant may file information to perfect a request for external review upon a finding that the request was not complete.

## Deadline Extension for ERISA Notices and Disclosures

In addition to the participant deadline relief above, extended time frames were provided for plan officials to furnish benefit statements and other notices and disclosures required under ERISA, so that plan sponsors have additional time to meet their obligations during the COVID-19 outbreak.

Under the initial relief, an employee benefit plan will not be in violation of ERISA for a failure to timely furnish a notice, disclosure or document that must be furnished during the Outbreak Period, if they act in good faith. This means the plan must furnish the documents **as soon as administratively practicable** under the circumstances. Good faith acts include use of electronic means of communicating with plan participants who the plan sponsor reasonably believes have effective access to electronic means of communication, including email, text messages and continuous access websites.

The DOL acknowledged in Notice 2021-01 that many plans have already returned to normal compliance procedures for furnishing notices and disclosures, and that notices and disclosures properly furnished without relying on the initial relief **do not** need to be refurnished. Similarly, to the extent the plan can demonstrate that a notice or disclosure was actually received, it would not need to be refurnished even if it was initially furnished in reliance on the prior relief.

## Application of the One-year Limit

Notice 2021-01 clarifies that individuals and plans subject to the initial relief can **extend the applicable deadlines until the earlier of:**

- One year from the date they were first eligible for relief; or
- 60 days after the announced end of the National Emergency (the end of the Outbreak Period).

On the applicable date, the time frames for individuals and plans with periods that were previously disregarded will resume. In no case will a disregarded period exceed one year.