

End Game:
COVID National Emergency
Expiration May 11, 2023



Who am I?

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 - President & Owner of ABY Benefits, your TPA compliance partner for the alphabet soup of the tax code:
 - FSA/DCAP, **HRAs of any kind**, HSA, QTB, **COBRA**
 - Section 125 POP Plans & related NDT
 - ERISA Wrap Documents, **ACA Reporting**, Form 5500
 - **NQTL / QTL Reporting & Drug Cost Reporting**
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National Outbreak Emergency Period?!?!

- National Emergency ends on May 11, 2023
- Outbreak Period ends on July 10, 2023
- Tolling of timelines cease and the clock starts ticking!



- EBSA Disaster Relief Notice 2021-01
 - Extended COBRA deadlines effective March 1, 2020
 - New guidance says tolling ends earlier of 60 days or 12 months after QE
- American Rescue Plan Act of 2021 (ARPA)
 - COBRA premium subsidies from April 1 to September 30, 2021
 - 100% subsidy for involuntary termination
 - New election window for 'free' COBRA months
 - Did not extend COBRA coverage window
- **Latest guidance states the extensions must be measured on an individual basis!**

Extended Deadlines? Benefit Plan Deadlines Tolled!



- Time period to request HIPAA special enrollment
- Time period to elect COBRA continuation coverage
- The deadline to make COBRA premium payments
- The date for individuals to notify plans of a COBRA qualifying event or determination of disability
- The date within which individuals may file a benefit claim under the plan's claim procedures
- The date within which individuals may file an appeal of an adverse benefit determination under the plan's claims procedures
- The date within which individuals may file a request for an external review after receipt of an adverse benefit determination or final internal adverse benefit determination
- The date within which individuals may file information to perfect a request for external review

Coverage During the National Emergency

Should the Employer have sent all COBRA letters as usual?

- YES...why wouldn't you send as usual?

Could you terminate COBRA coverage?

- YES as long as it was reinstated if/when needed.

Do you need **ACTIVE** coverage this month?

- YES...then pay the premiums.



Examples: COBRA Notices

- **COBRA Qualifying Event Notice (2022):** Employee loses coverage under the Employer-sponsored group health plan as a result of termination of employment as of June 1, 2022. The 44-day period to provide the employee with the COBRA election notice is extended by disregarding the Outbreak Period.

The National Emergency ends May 11, 2023, and therefore the Outbreak Period ends July 10, 2023.

One year after the loss of coverage (July 30, 2023) is earlier than 44 days following the end of the Outbreak Period (August 24, 2023), therefore the COBRA election is due no later than July 30, 2023.

Examples: COBRA Notices

- **COBRA Qualifying Event Notice (2023)**: Employee loses coverage under the employer-sponsored group health plan as a result of termination of employment as of April 1, 2023. The 44-day period to provide the employee with the COBRA election notice is extended by disregarding the Outbreak Period.

The National Emergency ends May 11, 2023, and therefore the Outbreak Period ends July 10, 2023.

The plan has until 44 days after the end of the Outbreak Period (by August 23, 2023) to provide the COBRA election notice.

Examples: COBRA Elections

○ **COBRA Election Example (2022)**: A qualified beneficiary (QB) is provided a COBRA election notice on June 1, 2022, the QB would have 60 days from the date of the COBRA election notice to make an election of COBRA coverage (July 30, 2022). With the National Emergency, this period was **tolled** until the earlier of the end of the Outbreak Period (July 10, 2023) or one year from the original deadline date for that QB.

One year after the original deadline (July 30, 2023) is earlier than 60 days following the end of the Outbreak Period (September 8, 2023), therefore the COBRA election is due no later than July 30, 2023.

Examples: COBRA Elections

- **COBRA Election Example (2023)**: A QB receives the COBRA election notice on May 1, 2023, the standard 60-day COBRA election period would end June 29, 2023.

With the National Emergency, the date that is 60 days from the end of the Outbreak Period (September 8, 2023) is earlier than one year from the original deadline date (June 29, 2024). As a result, the QB is required to make their COBRA election no later than September 8, 2023.

Examples: COBRA Premiums

- **COBRA Initial Premium Payment Example (Electing Within 60 Days of Receipt of Election Notice)**: If a QB is provided a COBRA election notice on June 1, 2022, and **elects** on July 15, 2022, the QB would normally have 45 days from the date of the COBRA election to make their **initial** COBRA premium payment (August 28, 2022).

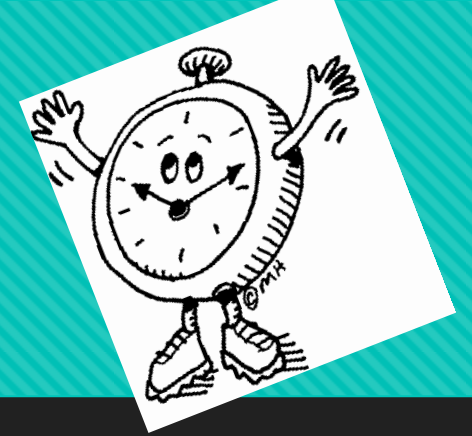
Due to the National Emergency, this period was suspended for up to one year, which would have been August 28, 2023. With the end of the National Emergency, this **initial premium payment would be due no later than August 24, 2023**, 45 days from July 11, 2023.

Examples: COBRA Premiums

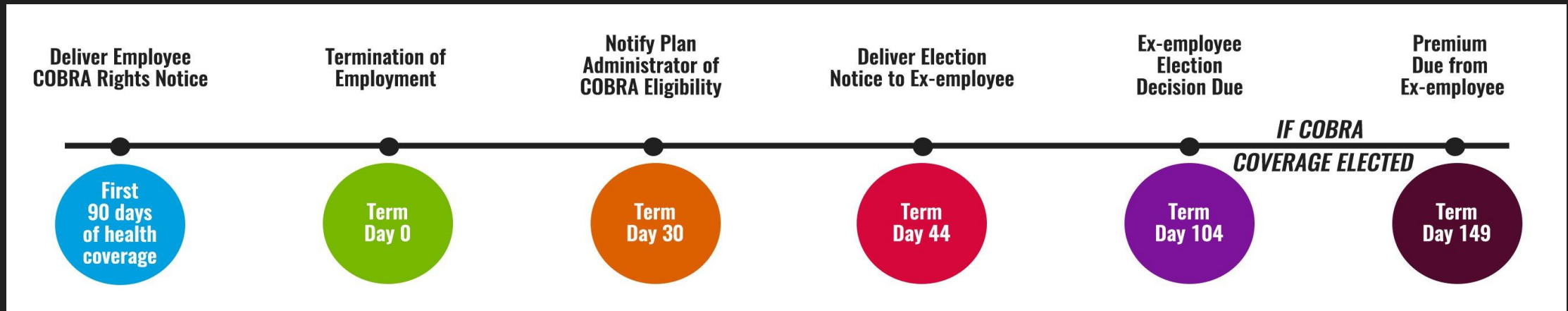
- **COBRA Initial Premium Payment Example (Electing More Than 60 Days After Receipt of Election Notice):** If a QB has a qualifying, is provided a COBRA election notice on June 1, 2022, and makes the election on December 1, 2022, retroactive to August 1, 2022, because the QB did not elect COBRA continuation coverage within 60 days of their election notice, they would have year and 105 days after June 1, 2022 to make the initial COBRA premium payment (September 13, 2023).

However, due to the end of the National Emergency, the initial premium payment would be due no later than August 24, 2023, which is 45 days from July 11, 2023.

Back to Normal!



- 60 day COBRA election period
- 45 or 30 day COBRA premium payment period
- Employer / plan admin 30 / 14 day COBRA election notice period
- 30 or 60 day HIPAA special enrollment period
- Time periods for filing benefit claims and appeals



Bottom Line!



- Health plans will stop applying the National Emergency & Outbreak Period extensions from ERISA, COBRA and HIPAA timeline calculations as of **July 10, 2023**.



- Resend COBRA letters/notices?
- When are COBRA premiums due?

QUESTIONS?

END GAME



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