

THE IRS CLARIFIES COBRA ELECTION AND PREMIUM PAYMENT DEADLINES DURING COVID-19 OUTBREAK PERIOD

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On October 6, 2021, the Internal Revenue Service issued Notice 2021-58, further clarifying the disaster relief extensions of COBRA election and premium payment deadlines. Previously, the IRS, Department of Labor and Department of Health and Human Services had issued coordinated guidance, providing relief from multiple employee benefit deadlines during an Outbreak Period – the period from March 1, 2020 through the date that is 60 days after the announced end of the COVID-19 national emergency. Under prior joint agency guidance, plan administrators were instructed to “disregard” the Outbreak Period for purposes of determining the due dates for COBRA elections and premium payments (initial and ongoing). ([See our article here](#)).

Subsequently, the DOL issued guidance clarifying that the Outbreak Period is ongoing and extensions are measured on a person-by-person basis, ending the earlier of: (a) 1 year from the date the person was first eligible for relief from a deadline; or (b) 60 days after the announced end of the COVID-19 national emergency. ([See our article here](#)).

This latest guidance clarifies that the “disregarded” period for electing COBRA coverage and making initial and ongoing premium payments run concurrently. The impact of this rule is that the timeframe for making COBRA premium payments depends on whether an individual elected COBRA coverage within the initial 60 day election period, or later.

- If a COBRA election is made within the 60 day timeframe, the deadline for the initial premium payment is one year and 45 days after the date of election.
- If a COBRA election is made after the 60 day timeframe, the deadline for the initial premium payment is one year and 105 days after the date of election.

Ongoing COBRA premium payments are then due one year and 30 days from the original due date. There is limited transitional relief providing that no COBRA premium payment will be due before November 1, 2021 if the individual makes the initial premium payment within one year and 45 days of the election date.

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The notice also discusses the interaction of the ARPA COBRA premium subsidies and the deadline extensions.

<https://www.irs.gov/pub/irs-drop/n-21-58.pdf>