

## IMPORTANT NOTICE

On April 29, 2020, federal authorities directed sponsors of employee welfare benefit plans to suspend the running of certain limited “action periods” in which plan participants and beneficiaries were otherwise required to:

- **Make COBRA continuation coverage elections**
  - Standard deadline: 60 days after issuance of the COBRA notice
- **Make COBRA premium payments**
  - Standard deadline: 45 days for the initial payment after the COBRA coverage election, 30 days after the relevant due date for subsequent monthly payments
- **Notify the plan of certain COBRA qualifying events** such as divorce, legal separation, and a child aging out of eligibility
  - Standard deadline: 60 days after the latest of the event and the date coverage is lost
- **Apply for a HIPAA special enrollment opportunity**
  - Standard deadline: 30 days for most special enrollments, 60 days where the triggering event is loss of coverage under a state Children’s Health Insurance Program (CHIP) or Medicaid, or entitlement to receive premium assistance under those programs
- **Submit claims for benefits**
  - Standard deadline: Varies by plan
- **Submit appeals related to benefit claims that were denied in whole or in part**
  - Standard deadline: 180 days for healthcare and disability plans, 60 days for other welfare benefit plans and retirement plans
- **Submit or perfect a request for third-party review of a denied healthcare claim under a non-grandfathered healthcare plan**
  - Standard deadline: Four months after receipt of the denial of the claim or an appeal

The suspensions apply to action periods whose deadlines would otherwise have occurred on or after March 1, 2020, but not to action periods that begin on or after the date that is 60 days after the rescission of the presidential national health emergency declaration related to COVID-19, a declaration that remains in effect.

Under federal law, however, the suspension of these action periods cannot exceed 12 months. Federal authorities issued additional instructions to plan sponsors on Feb. 26, 2021, describing how the 12-month suspension of the running of an applicable action period applies on an individual-by-individual basis, and on an action-by-action basis. Generally, the running of a relevant action period is suspended until the end of the 12-month maximum suspension period or, if earlier, the date that is 60 days after the president rescinds the national emergency declaration. The purpose of this notice is to describe how the suspensions of these action periods might apply to you.

- **COBRA continuation coverage elections:** If you have received/receive a **COBRA continuation coverage election notice** that, under normal circumstances, required/requires you to decide to elect COBRA during a 60-day window (action period) that ended/ends on or after March 1, 2020, the running of your 60-day action period was suspended effective March 1, 2020, and does not begin to run again until the *earlier* of two dates: (1) the date that is the later of March 1, 2021, and the 12-month anniversary of the date the notice

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was sent to you, or (2) the date that is 60 days after the president rescinds the national emergency declaration related to COVID-19.

Of course, if you receive such a notice on or after the 60<sup>th</sup> day following the rescission of that presidential declaration, the typical COBRA rules will apply and your 60-day action period begins on the date the notice is sent to you.

Nothing in this notice extends the COBRA *coverage* period that that was or will be described to you in the COBRA notice that you received or will receive at or shortly after the time of your COBRA qualifying event.

- **COBRA payment obligations:** If you are now or later become obligated to make one or more **COBRA premium payments**, the monthly due dates for which were or are otherwise due on or after March 1, 2020, and before the 60<sup>th</sup> day following the rescission of the presidential national emergency declaration, the 45-day grace period (for your initial premium payment following your COBRA election) and 30-day grace periods (for subsequent months) begin to run on the *earlier* of two dates: (1) For your initial premium payment, the date of your COBRA election (the due date of which may be deferred as reflected in the preceding section of this notice), and for subsequent months premiums, the date this is the 12-month anniversary of the original due date,\* or (2) the date that is 60 days after the president rescinds the national emergency declaration related to COVID-19.

\* There is some question whether, under recent federal guidance, each COBRA premium payment described in (1) above is deferred an *additional* 12 months (e.g., initial premium otherwise due 45 days after the COBRA election is not due for *12 months plus 45 days* after the election; the monthly premium for, say, July, 2021, is deferred to July, 2022, and the monthly premium for August 2021, is deferred to August, 2023, etc.). If you have questions about your deferred COBRA premium payment deadline, please contact us as reflected at the end of this notice.

Of course, if a premium payment is due on or after the 60<sup>th</sup> day following the rescission of that presidential declaration, the typical COBRA rules apply and your COBRA premium payment is due on the first day of the month to which the premium payment applies. **Note:** COBRA premium payments are considered late if not received by the 30<sup>th</sup> day following the due date, including any adjusted due date as described above.

Moreover, if you *do* make retroactive COBRA premium payments, they will be applied first to the first month of your COBRA coverage period and will be applied chronologically from that month. If you miss a premium payment due date, after taking into account the extensions described in this notice, the normal 30-day COBRA premium payment grace period will apply beginning on the extended due date for the month whose premium deadline you missed.

- **COBRA notice of qualifying events:** Some events that give rise to a COBRA continuation coverage right require the affected beneficiary to *notify the plan* with 60 days, to preserve the right to COBRA. These events are divorce, legal separation and a child aging out of eligibility. If one of these events occurred within 60 days prior to March 1, 2020, or occurred (or occurs) on or after that date, the running of the 60-day period to notify the plan was suspended effective March 1, 2020, and does not begin to run again until the *earlier* of two dates: (1) the date that is the later of March 1, 2021, and the 12-month anniversary of either the date of the event (or if later the date coverage is lost due to the event), and (2) the date that is 60 days after the president rescinds the national emergency declaration related to COVID-19.

Of course, if the event (or its related loss of coverage) occurs on or after the 60<sup>th</sup> day following the rescission of that presidential declaration, the typical COBRA rules will apply and the 60-day action period begins on the date of the event or, if later, the date coverage is lost due to the event.

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Nothing in this notice extends or delays the 36-month COBRA *coverage* period related to a loss of coverage due to divorce, legal separation or a child aging out of eligibility.

- **HIPAA special enrollments:** If you desire to apply for a **HIPAA special enrollment** for you and/or one or more dependents under our medical plan, and the normal 30- or 60-day action period (depending on the reason for the special enrollment request) for making that application fell/falls on or after March 1, 2020, the running of your 30- or 60-day action period was suspended effective March 1, 2020, and does not begin to run again until the *earlier* of two dates: (1) the date that is the later of March 1, 2021, and the 12-month anniversary of the event that triggered your right to request special enrollment, or (2) the date that is 60 days after the president rescinds the national emergency declaration related to COVID-19.

Of course, if your 30- or 60-day action period would otherwise first begin on or after the 60<sup>th</sup> day following the rescission of that presidential declaration, the typical HIPAA special enrollment rules apply and your action period begins on the date that triggers your right to request special enrollment.

If you wish to apply for a HIPAA special enrollment, your coverage will be retroactive to the date of the event (in the case of the birth, adoption or placement for adoption of a child) or the first day of the month following the event (in other cases), but of course you must pay the appropriate premiums for the period of retroactive coverage.

- **Claims appeals:** If you have incurred or incur one or more **claims that need to be submitted** under one or more of our welfare benefits plans, had or have a claim that was/is denied in whole or in part and **you wish to appeal**, or you desire to **request third-party review** of a denied healthcare claim (or you need to **perfect such a request for third-party review**), *and* the action period for submitting that claim, submitting your appeal, requesting third-party review or perfecting a request for third-party review ended or ends on or after March 1, 2020, the running of your action period for these submissions and requests was suspended effective March 1, 2020, and does not begin to run again until the *earlier* of two dates: (1) The date that is the later of March 1, 2021, and the 12-month anniversary of the date your action period would otherwise have begun, or (2) the date that is 60 days after the president rescinds the national emergency declaration related to COVID-19.

Of course, if the running of your action period first begins on or after the 60<sup>th</sup> day following the rescission of that presidential declaration, the typical rules of the plan relating to claim and appeal submission deadlines, and deadlines to request or perfect a request for third-party review, apply.

If you have questions about this notice, please contact:

- **COBRA – WEX (formerly Discovery Benefits at 844-561-1339 or email [EBSACOBRA@discoverybenefits.com](mailto:EBSACOBRA@discoverybenefits.com)).**
- **Claims Appeals – Banner|Aetna Concierge Team - 855-788-5803**
- **HIPPA Special Enrollment – email - [Benefits@BannerHealth](mailto:Benefits@BannerHealth)**