

September 2020

In April 2020, the Department of Labor (DOL) and the Treasury issued a [final rule](#) to provide plan participants with additional time to comply with certain deadlines, including COBRA continuation coverage. The final rule extends the deadlines by disregarding the period from March 1, 2020 until 60 days after the end of the National Emergency (or such other date announced by the Departments). This is referred to as the “Outbreak Period” and cannot exceed one year. To help employers navigate these new COBRA deadlines, Bolton has prepared answer to the following frequently asked questions:

1. Do these deadline extensions apply to state and local government plans?

No, the deadline extension issued by the DOL and IRS does not apply to state and local government plans. This extension is only applicable to private sector employers.

2. Should state and local government plans follow the extension deadlines?

Although not mandated by the DOL and IRS as stated above, the Health and Human Services (HHS) department, (which has jurisdiction over state and local government plans) announced that it encourages state and local governments to voluntarily follow the deadline extension. The HHS stated they will not assert any violation of the law by a state or local government that chooses to voluntarily follow the deadline extensions. The acceptance of the deadline extensions is a policy matter for state and local government officials to decide.

3. Do claims incurred during the election period, but before COBRA has been elected, have to be paid?

Claims incurred during the election period, but before COBRA coverage is elected, do not have to be paid. If a provider seeks confirmation of coverage during the election period, the provider must be told that the individual is eligible to elect coverage retroactively, but coverage will not be effective unless elected and paid for.

4. Do claims incurred after COBRA election but before premium payment has been received have to be paid?

If a qualified beneficiary has elected COBRA but has not yet paid their premium, claims incurred prior to receipt of payment do not have to be paid. If a provider seeks confirmation of coverage during the premium payment grace period, the provider must be told that the individual has elected coverage but has not yet paid their premium and therefore claims will not be paid unless and until the premium is timely paid.