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For additional information:

Jason Hammersla

jhammersla@abcstaff.org / (202) 422-4652

DOL Guidance Provides Clarity, But Also Increases Burdens and Complexity for Benefit Plans and Participants

WASHINGTON, DC – “Today’s guidance by the Department of Labor allowing benefit plan participants to have substantial additional time to make certain decisions, such as electing COBRA, will significantly increase burdens and complexity for plan sponsors and cause confusion for participants” American Benefits Council President James A. Klein said today.

In recent months, there has been widespread confusion among plan sponsors as to when and if the prior Department of Labor guidance extending certain plan participant timeframes would lapse. Today’s notice answered that question, by determining that the original guidance will continue for as long as the COVID-19 national emergency continues. However, for each individual participant, the time period to be ignored in calculating the relevant deadline, which effectively creates the extension, cannot be more than one year. The Council had advocated for a clear end to the guidance at the end of February 2021 – one year from when relief first began, thereby giving effect to the one-year outer limit provided in the statute. However, the Department of Labor’s interpretation extends the guidance for the foreseeable future.

“It is important that the Department of Labor provided guidance because of great uncertainty among plan sponsors,” Klein said. “However, the guidance, which requires plan sponsors to determine the duration of the relief on a person-by-person basis adds substantial administrative complexity, to the detriment of plans and their participants. This is in addition to other significant issues raised by the original guidance. For example, in the health plan context, it puts employees in the position of not seeking health care services and potentially facing many

months of retroactive COBRA premiums at once. At the same time, it is likely to significantly increase the adverse selection in group health plans leading to increased costs for employers and participants.”

For more information on workplace retirement plans, or to arrange an interview with the Council’s retirement team, contact Jason Hammersla, Council vice president, communications, at jhammersla@abcstaff.org or by phone at (202) 422-4652 (cell).

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The Council is a public policy organization whose members include over 220 of the world’s largest corporations, as ranked by Fortune and Forbes. Collectively, the Council’s members either directly sponsor or administer health and retirement benefits for virtually all Americans covered by employer-sponsored plans.