



AMERICAN BENEFITS
COUNCIL

Benefits Briefing:
COVID-19 Deadline Extensions
and Other Regulatory Updates

Friday, May 15, 2020
2 p.m. ET

Today's Speakers

Moderators:

Jan Jacobson

*Senior Counsel, Retirement
Policy*

Katy Johnson

Senior Counsel, Health Policy
American Benefits Council

Guest Speakers:

Amber M. Rivers

*Acting Director, Office of
Health Plan Standards and
Compliance Assistance*

Joe Canary

*Director, Office of Regulations
and Interpretations*

Employee Benefits Security
Administration

U.S. Department of Labor

Michael Hadley

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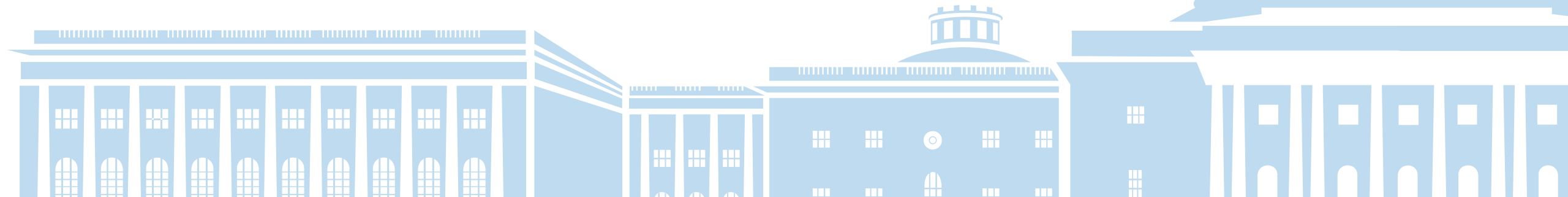
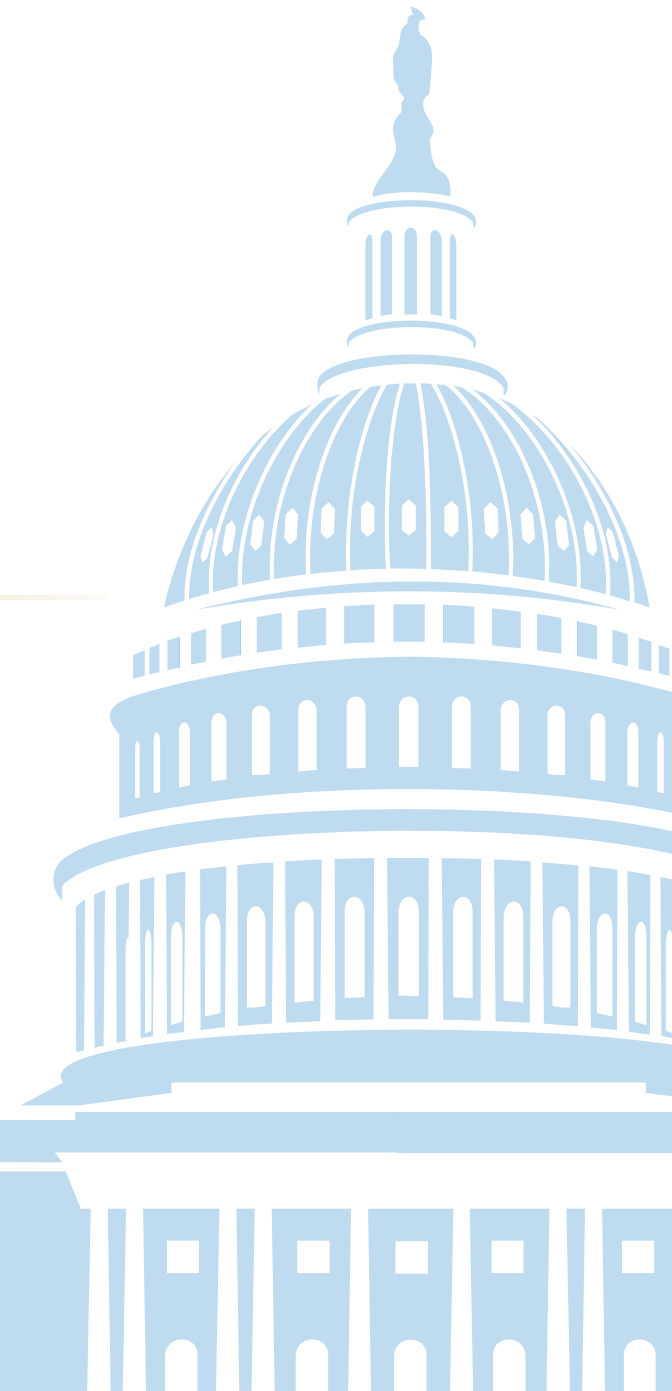


Recent COVID-19 Retirement Regulatory Relief

American Benefits Council Benefits Briefing

Mike Hadley, Partner

Adam McMahon, Associate



CARES Act Distribution and Loan Relief

Coronavirus-Related Distributions

- ▶ **Distributions in 2020 only**
- ▶ **Up to \$100,000**
- ▶ **10% penalty waived**
- ▶ **3-year income inclusion**
- ▶ **3-year recontribution**
- ▶ **402(f) and 20% mandatory withholding waived**

Loan Relief

- ▶ **Maximum loan limit increased to lesser of \$100,000 or 100% of vested account**
- ▶ **Loan repayments between 3/27/20 and 12/31/20 delayed for one year**

CARES Act FAQs

Released May 6, 2020

- ▶ **IRS interprets CARES Act consistent with Notice 2005-92**
 - Distribution and loan relief is optional
 - Otherwise applicable restrictions still apply
 - “Actual knowledge to the contrary”
 - Form 1099-R

- ▶ **IRS anticipates additional guidance in the near future**

- ▶ **Effective dates**
 - Increased loan limit available until September 22, 2020
 - CRDs available until December 30, 2020

Outstanding Issues

- ▶ **Must plans accept repayments?**
- ▶ **How will loan delay affect repayments due after 2020?**
- ▶ **Self-certification for loan relief?**

Council Requests

March 26, 2020 letter

- ▶ **Broad deadline relief per RR 2018-58**
- ▶ **Specific plan amendment deadlines (403(b), DB restatement)**
- ▶ **Distribution and loan relief**
- ▶ **Spousal consent**
- ▶ **Standard ERISA disaster relief and extend ERISA deadlines**
- ▶ **PBGC relief**



Relief Period

- ▶ **Begins on March 1, 2020 and ends on the 60th day following the announced end of the National Emergency**

How This Notice Differs from Prior Disasters

- ▶ **Exercises authority under ERISA section 518**
- ▶ **Relief period is ongoing, not based on an “event date”**
- ▶ **Relief for notices and disclosures**
- ▶ **Plan amendment relief**

EBSA Notice 2020-01

Notices and Disclosures

- ▶ Relief if plan acts in good faith and furnishes as soon as administratively practicable
- ▶ Electronic delivery good faith if participant has effective access
- ▶ Covers benefit statement and annual funding notice
- ▶ Relief for blackout notices

Distribution and Loan Relief

- ▶ Confirms that CARES Act loan okay under DOL loan regulation
- ▶ Relief for procedural requirements for loans and distributions
- ▶ No relief for spousal consent and other requirements under jurisdiction of Treasury/IRS

EBSA Notice 2020-01

Participant Contributions

- ▶ **No enforcement action solely based on temporary delay in forwarding loan repayments and participant contributions**
- ▶ **Requirement to act reasonably, prudently, and comply as soon as reasonably practicable**

Claims Processing

- ▶ **Relief from temporary delays in claims processing**

Plan Amendments

- ▶ **Plan is treated as compliant with plan document if retroactive amendment is made by end of 2022 plan year**

American Benefits Council

Benefits Briefing Webinar

COVID-19 Deadline Extensions and Other Regulatory Updates

Katie Amin

Malcolm Slee

GROOM LAW GROUP

DOL and Treasury Final Regulations
on Extension of Timeframes

Final Regulations

- On April 29, DOL and Treasury issued final regulations that suspend certain deadlines
- Applies during an “outbreak period”:
 - Begins on March 1, 2020
 - Ends 60 days after the yet-to-be announced end of the COVID-19 national emergency (but no longer than 1 year)

Final Regulations – Participant Relief

- HIPAA Special Enrollment
 - The 30-day (in some instances, 60-day) deadline to request enrollment in a group health plan following a special enrollment event (i.e., birth, adoption or placement for adoption of a child, marriage, loss of other health coverage, or eligibility for a state premium assistance subsidy)

Final Regulations – Participant Relief

- COBRA Qualifying Event and Disability Extension Notices
 - The 60-day deadline by which qualified beneficiaries must notify the plan of certain qualifying events (e.g., divorce or legal separation, a dependent child ceasing to be a dependent under the terms of the plan) or disability determination
- COBRA Election
 - The 60-day deadline to elect COBRA coverage
- COBRA Premium Payment
 - The 45-day (for the initial payment) and 30-day (for subsequent payments) deadlines to timely pay COBRA premiums

Final Regulations – Participant Relief

- Benefit Claims and Appeals
 - The deadline under the plan by which participants may file a benefit claim (under the terms of the plan) and the 180-day (for group health plans) and 60-day (for other welfare benefit plans) deadlines for appealing an adverse benefit determination
 - Note that the extended deadlines for filing claims and appeals apply to all ERISA plans, including retirement plans

Final Regulations – Participant Relief

- External Review
 - The 4-month (for the federal external review process; this period could be different for a state external review process) period for a claimant to file a request for external review
 - The 4-month (or 48-hour following receipt of the incomplete request notification, if later) period for a claimant to perfect an incomplete request for external review

Final Regulations – Plan Relief

- The regulations suspend the 14-day deadline (44 days where the employer is the plan administrator) for a plan administrator to provide a COBRA election notice to qualified beneficiaries