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

Friday, May 15, 2020
2 p.m. ET
## Today’s Speakers

<table>
<thead>
<tr>
<th>Moderators:</th>
<th>Guest Speakers:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan Jacobson</td>
<td>Amber M. Rivers</td>
</tr>
<tr>
<td>Senior Counsel, Retirement Policy</td>
<td>Acting Director, Office of Health Plan Standards and Compliance Assistance</td>
</tr>
<tr>
<td>Katy Johnson</td>
<td>Joe Canary</td>
</tr>
<tr>
<td>Senior Counsel, Health Policy</td>
<td>Director, Office of Regulations and Interpretations</td>
</tr>
<tr>
<td>American Benefits Council</td>
<td>Employee Benefits Security Administration</td>
</tr>
<tr>
<td></td>
<td>U.S. Department of Labor</td>
</tr>
</tbody>
</table>

**Moderators:**
- Jan Jacobson: Senior Counsel, Retirement Policy
- Katy Johnson: Senior Counsel, Health Policy

**Guest Speakers:**
- Amber M. Rivers: Acting Director, Office of Health Plan Standards and Compliance Assistance
- Joe Canary: Director, Office of Regulations and Interpretations
- Katie Bjornstad Amin: Principal
- Michael Hadley: Partner
- Adam McMahon: Associate
- Malcolm Slee: Principal
- Adam McMahon: Associate
- Davis & Harman LLP
- Katie Bjornstad Amin: Principal
- Groom Law Group, Chartered
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
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
CARES Act FAQs

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

Katie Amin
Malcolm Slee
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