

4 Key Things to Know This Week Involving Covid 19 and Workforce Planning

1. Cobra Election/Payment Period Extensions

In response to the COVID-19 pandemic, the U.S. Department of Labor (DOL) released a new final rule that temporarily extends the period in which eligible employees can elect COBRA health insurance coverage, and the deadline for them to begin making COBRA premium payments.

The final rule extends time frames affecting participants' rights to health care coverage, portability and continuation of group health plan coverage under COBRA, and it extends the time for plan participants to file benefit claims or appeal denied claims.

The rule applies as follows:

- **Deadline for plan administrators to furnish COBRA notices.** No extension. This remains to be 14 days.
- **The COBRA election period.** Under COBRA, employees and dependents that lose active coverage as a result of a qualifying event, such as termination of employment or reduction of hours, normally have 60 days to elect continuation of coverage after receiving a COBRA election notice. Under the rule, the 60-day timeframe doesn't start until the end of the OutbreakPeriod.*
- **The COBRA premium payment period.** COBRA enrollees normally have 45 days from their COBRA election to make the first premium payment, and subsequent monthly payments must be made within a 30-day grace period that starts at the beginning of each coverage month. The new rule extends the initial premium payment and grace period deadlines beyond the OutbreakPeriod.*

**Outbreak Period is defined as March 1, 2020, to 60 days after the end of the declared COVID-19 national emergency. For example, if the emergency declaration expires as written on June 29, 2020, the Outbreak Period will end on August 28, 2020.*

Source: <https://www.federalregister.gov/documents/2020/05/04/2020-09399/extension-of-certain-timeframes-for-employee-benefit-plans-participants-and-beneficiaries-affected>

2. Cafeteria Plan Changes and Notifications

The Internal Revenue Service (IRS) has issued [IRS Notice 2020-29](#) (link to the notice <https://www.irs.gov/pub/irs-drop/n-20-29.pdf>). This notice provides increased flexibility

for making mid-year elections or changes under a Section 125 cafeteria plan during calendar year 2020 related to employer-sponsored health coverage, health flexible spending arrangements (health FSAs), and dependent care assistance programs (DCAPs). Participants of a cafeteria plan are now allowed to revoke and change their elections for benefits during the plan year for any reason in calendar year 2020. To allow these changes, employers are required to amend their cafeteria plans and communicate these amendments to participants.

The Notice provides that an employer with insured or self-insured coverage may amend a Section 125 cafeteria plan to allow employees to:

- Make a new election for employer sponsored health coverage on a prospective basis, if the employee initially declined to elect employer-sponsored health coverage.
- Revoke an existing election for employer-sponsored health coverage and make a new election to enroll in different health coverage sponsored by the same employer on a prospective basis (including changing enrollment from self-only coverage to family coverage).
- Revoke an existing election for employer-sponsored health coverage on a prospective basis, provided that the employee attests in writing that the employee is enrolled, or immediately will enroll, in other health coverage not sponsored by the employer (the employer may rely on the written attestation provided by the employee, unless the employer has actual knowledge that the employee is not, or will not be, enrolled in other health coverage not sponsored by the employer).
- Revoke an election, make a new election, or decrease or increase an existing election regarding a health FSA on a prospective basis.
- Revoke an election, make a new election, or decrease or increase an existing election regarding a dependent care assistance program on a prospective basis.
- With respect to health FSAs and DCAPs, employers are permitted to limit mid-year elections to amounts no less than amounts already reimbursed.

Plan amendments

An employer amending its Section 125 cafeteria plan, health FSA or DCAP in accordance with this Notice must adopt a plan amendment setting forth the changes. Also, employers that are amending their health FSAs to provide for an increase in the carryover amount under IRS Notice 2020-33 for the 2020 plan year or subsequent plan years must adopt a plan amendment. An amendment for the 2020 plan year must be adopted on or before December 31, 2021, and may be effective retroactively to January 1, 2020.

3. Shared Work Program

The shared work program administered by the State of MN Unemployment Office may be a great alternative to layoffs and a good option when work demands are low and hours have been reduced. In summary, a group of employees divide available hours of work by working reduced hours and collecting a portion of their unemployment compensation. If you are interested in learning more about the program and if you are eligible visit the IUMN website link below:

<https://uimn.org/employers/alternative-layoff/>

4. Covid-19 Business Preparedness Plan

This is a document required for all non-essential businesses planning to reopen and/or return employees to a work site. Although not necessarily required for businesses deemed essential by the State of MN it is being recommended to have a plan. This document is not required to be submitted or approved by a government agency, however government agencies are responding to employee complaints and if you are audited they will ask to see your plan. A plan should include the following areas:

- Introduction
- Responsibility of Supervisors and Managers
- Responsibility of Employees
 - Employee Health and Hygiene
 - Social Distancing
 - Cleaning, Disinfection and Ventilation
- Workplace Protocols to Follow When Returning to Work
- Employee Screening Protocol
- Covid-19 Exposure and Confirmed Illness Protocol
- Reporting Protocol
- Business Protection Measures
 - Visitors
 - Workplace Controls
 - Cleaning Procedures

- OSHA Recordkeeping
- Confidentiality
- Communication and Training

Additionally you should be prepared to answer 'yes' to the following questions:

- Is the plan accessible? If so, where and how? (physical/electronic locations)
- Have your employees received notice of this plan? If so, when and how was it communicated?
- Have your managers been notified and trained on the protocols?