



NAHU COVID-19 Relief Requests Granted

Earlier this month, NAHU submitted a list of [suggestions](#) to the Administration that would provide relief for COVID-19 affected markets so that employers and individuals would be able to maintain or obtain health insurance coverage during the pandemic. You can listen to a discussion of our suggestions on the Healthcare Happy Hour [here](#).

Today, the Department of Labor released [guidance](#) that addresses many of the topics we included in our letter. In the guidance, the DOL recognizes one of our main concerns that the COVID-19 outbreak may temporarily impede efforts to comply with various requirements and deadlines under ERISA. The guidance applies to employee benefit plans, employers, labor organizations and other plan sponsors, plan fiduciaries, participants and beneficiaries, and service providers subject to ERISA from March 1, 2020, the beginning of the national emergency declared by the president, until 60 days after the announcement of the end of the COVID-19 National Emergency or any other date determined by the DOL in a future notice. If there are different outbreak period end dates for different parts of the country, the DOL will issue additional guidance regarding the application of the relief to those different areas.

First, the DOL recognized our concern that employers may not be able to comply with certain deadlines due to the pandemic. The DOL provided guidance that, in the case of an employee benefit plan, or any sponsor, administrator, participant, beneficiary or other person with respect to such plan, affected by a presidentially declared disaster or a public health emergency declared by the secretary of HHS, the secretary of Labor may prescribe, by notice or otherwise, a period of up to one year that may be disregarded in determining the date by which any action is required or permitted to be completed. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as a result of complying with the postponement of a deadline.

More specifically, for group health plans subject to ERISA or the Internal Revenue Code, the relief provides additional time to comply with certain deadlines affecting COBRA-continuation coverage, special enrollment periods, claims for benefits, appeals of denied claims and external review of certain claims. With regard to disability, retirement and other plans, the joint notice provides additional time for participants and beneficiaries to make claims for benefits and appeal denied claims. As we noted in our letter, without the extension, individuals might miss key deadlines during the COVID-19 outbreak that could result in the loss or lapse of group health coverage or the denial of a valid claim for benefits.

In addition, the DOL announced an extension of deadlines for furnishing other required notices or disclosures to plan participants, beneficiaries and other persons so that plan fiduciaries and plan sponsors have additional time to meet their obligations under Title I of ERISA during the COVID-19 outbreak. NAHU provided this suggestion as many groups may need to adjust their plans due to the pandemic but may not be able to comply with traditional notice requirements. This extension applies to the furnishing of notices, disclosures and other documents required by provisions of Title I of ERISA that are overseen by the DOL. An employee benefit plan and the responsible plan fiduciary will not be in violation of ERISA for a failure to timely furnish a notice, disclosure or document that must be furnished between March 1, 2020, and 60 days after the announced end of the COVID-19 National Emergency, if the plan and responsible fiduciary act in good faith and furnish the notice, disclosure or document as soon as administratively practicable under the circumstances. Good-faith acts include use of electronic alternative means of communicating with plan participants and beneficiaries who the plan fiduciary reasonably believes have effective access to electronic means of communication, including email, text messages and continuous access websites.

Another concern of NAHU was the deadline for Form 5500 filings. The Administration is providing Form 5500 Annual Return/Report filing relief in accordance with [IRS Sec. 7508](#) that allows for an extension in filing during a presidentially declared disaster. In addition, Form M-1 filings required for multiple employer welfare arrangements (MEWAs) and certain entities claiming exception (ECEs) are provided relief for the same period of time as the Form 5500 Annual Return/Report filing relief.

Finally, in a broader statement, the DOL recognized that affected plan participants and beneficiaries may encounter problems due to the COVID-19 outbreak and suggested that the guiding principle for plans must be to act reasonably, prudently and in the interest of the covered workers and their families who rely on their health, retirement and other employee benefit plans for their physical and economic wellbeing. The DOL advised plan fiduciaries to make reasonable accommodations to prevent the loss of benefits or undue delay in benefits payments in such cases and should attempt to minimize the possibility of individuals losing benefits because of a failure to comply with pre-established timeframes.

As NAHU suggested in our letter, the DOL acknowledged that there may be instances when plans and service providers may be unable to achieve full and timely compliance with claims processing and other ERISA requirements. Their enforcement will emphasize compliance assistance and include grace periods and other relief where appropriate, including when physical disruption to a plan or service provider's principal place of business makes compliance with pre-established timeframes for certain claims decisions or disclosures impossible.

NAHU will continue to advocate for further relief items to provide resources for you and your clients to maintain or obtain health insurance coverage at this time. As further guidance is released, regularly check your email, NAHU's social media channels and website for any updates. You can find links to pertinent information from WHO, CDC the DOL, IRS, Treasury and CMS guidance on our [website](#) along with webinars and other resources from NAHU. We also encourage you to contact insurance carriers, check plan documents and state law, and consider the needs of your clients as coverage decisions are being made.

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