

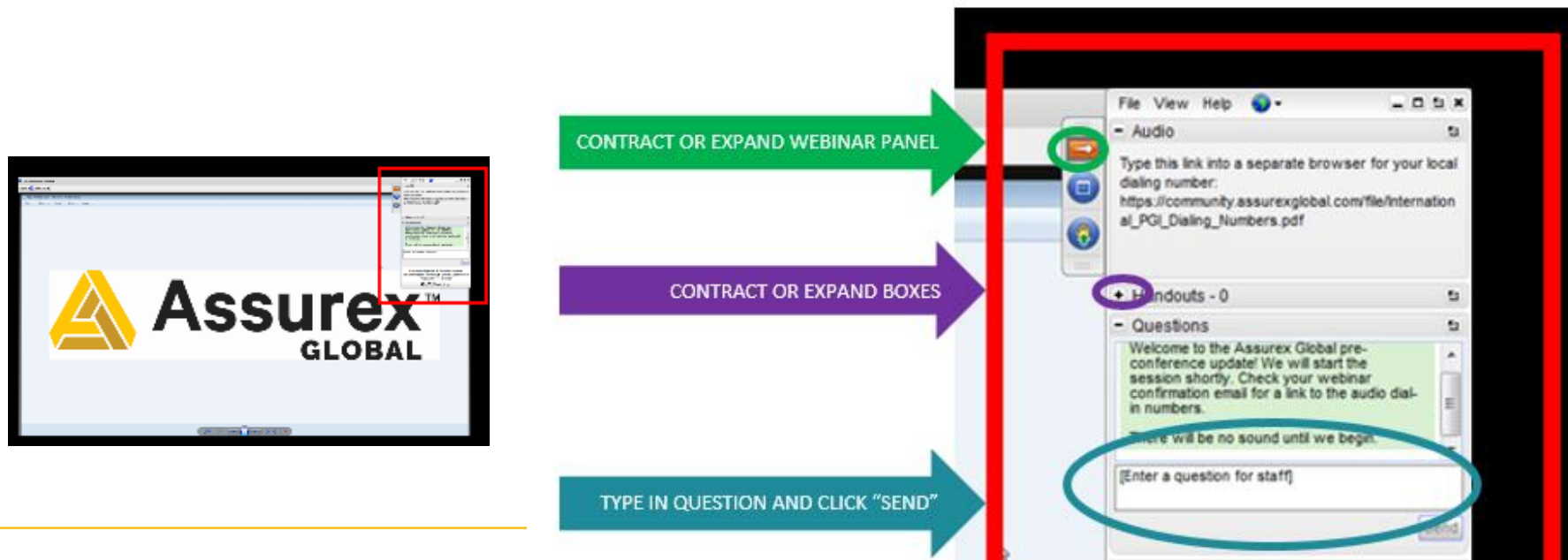
2020

Regulators Make Big Changes to Benefit Plan Notice and Disclosure Deadlines

Presented by Benefit Comply

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- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. When we begin, you can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your confirmation email.
- You will be able to submit questions during the webinar by using the “Questions” or “Chat” box located on your webinar control panel.
- Slides can be printed from the webinar control panel – expand the “Handouts” section and click the file to download.



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Agenda

- IRS Notices 2020-29 & 2020-33
 - §125 election change flexibility and extended claims filing
- DOL Disaster Relief Notice 2020-01
 - ERISA notices and disclosures flexibility
- Extended Timelines
 - COBRA, HIPAA Special Enrollments and ERISA Claims

IRS Notices 2020-29 & 2020-33

IRS Notice 2020-29

- Increased flexibility in permitted mid-year election changes
- Extended period to file health FSA and DCAP claims
- Retroactive application of previously released HDHP exemptions

IRS Notice 2020-29

- New Permitted Mid-Year Election Changes
 - Health Coverage
 - Allow employees who previously waived to make a new election for employer-sponsored health coverage
 - Allow employees to 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
 - Including changing enrollment from self-only coverage to family coverage
 - Allow employees to revoke an existing election for employer-sponsored health coverage
 - Employee must attest in writing that the employee is enrolled, or will enroll, in other health coverage not sponsored by the employer
 - Health FSA and DCAP
 - Allow employees to revoke an election, make a new election, or decrease or increase an existing election

IRS Notice 2020-29

- New Permitted Mid-Year Election Changes (Continued)
 - Election change flexibility applicable for 2020 only (retroactive to Jan. 1, 2020)
 - Only prospective election changes are permitted
 - Retroactive application is only available for election changes that employers allowed already
 - Changes are optional for employers - employers can implement none, some, or all of the changes
 - Plan amendments must be made by Dec. 31, 2021
 - Amendments can be retroactive to Jan. 1, 2020

IRS Notice 2020-29

- Extended Claims Period for Health FSAs and DCAPs
 - Employer can permit unused amounts in a health FSA or DCAP as of the end of a plan year or grace period ending in 2020 to be used to reimburse expenses incurred through Dec. 31, 2020
 - Applies to non-calendar year plans and 2019 calendar year plans with grace periods
 - Applies to general-purpose and limited-purpose health FSAs
 - Applies to health FSAs with a carryover or grace period
 - HSA Eligibility
 - Extending the claim filing period for a general-purpose health FSA would make an employee ineligible to make HSA contributions during the time of the extension
 - Extension is optional for employers
 - Plan amendments must be made by Dec. 31, 2021

IRS Notice 2020-33

- Changes to Health FSA Carryover Amounts
 - Prior rules
 - Employer can offer an optional health FSA carryover of \$500
 - New 2020 Rules
 - Beginning with the 2020 plan year, the carryover can be 20% of the annual health FSA contribution limit (\$2,750 in 2020)
 - Carryover may be increased to \$550 for 2020 plan years
 - Carryover increase is optional for employers
 - Plan amendment must be made by Dec. 31, 2021 retroactive effect to Jan. 1, 2020

DOL Disaster Relief Notice 2020-01 & Extension of COBRA, ERISA Claims, & HIPAA Special Enrollment Time Frames

Outbreak Period

- Notice and Disclosure Changes Based on Outbreak Period
 - National Emergency declared Mar. 1, 2020
 - Definition of “Outbreak Period”
 - Mar. 1, 2020 until 60 days after the National Emergency is declared over
- ERISA Notices and Disclosures
 - No DOL enforcement of late notices during outbreak period
- Certain Deadlines Must Ignore the Outbreak Period
 - COBRA notice, election and payment deadlines
 - HIPAA special enrollment notice requirements
 - ERISA claims procedures

ERISA Disclosures and 5500 Filing

- DOL Disaster Relief Notice 2020-01
 - Extension of Time to Provide ERISA Notices and Disclosures
 - Applicable to all ERISA notices and disclosures (e.g. SPDs, SBCs, initial COBRA notice, SARs, etc.)
 - Plan sponsors will not be considered non-compliant during the Outbreak Period within generally required time frames if plan sponsor acts in good faith and furnishes notice “*as soon as administratively practicable under the circumstances*”
 - Plan sponsors are permitted to use alternative electronic means of communicating including email, text messages, and websites
 - Form 5500 Filing Extension
 - Extended filing deadline of Jul. 15, 2020, for Form 5500 and Form M-1 filings due between Apr. 1 and Jul. 15, 2020 (plan years ending Sept. – Nov. 2019)
 - No extension for calendar year plans – Form 5500s still due by Jul. 31, 2020

ERISA Claims Timelines

- ERISA Claims Procedure – Example
 - Plan normally requires claims to be submitted 3 months after plan termination
 - Also applies to filing deadlines (e.g. run-out periods) for health FSAs and HRAs
 - Participant terminates from the plan Apr. 30, 2020

Normal claims submission deadline would be **Jul. 31, 2020**

- National Emergency declared over Jun. 30, 2020
 - Outbreak Period ends Aug. 29, 2020 (60 days after emergency declared over)

New claims submission deadline would be **Nov. 30, 2020**
(3 months after the end of the Outbreak Period)

Extended COBRA Timelines

- Normal Employer COBRA Deadlines
 - Initial COBRA notice must be provided to newly covered employees and spouses within 90 days of coverage effective date
 - COBRA Election Notice
 - Employer must notify the administrator within 30 days of certain qualifying events
 - COBRA administrator must provide an election notice within 14 days of receiving notice of a qualifying event
 - When employer is also the administrator, notice must be sent within 44 days
 - Even with this flexibility, it is usually in the employer's best interest to send required notices as soon as possible

Extended COBRA Timelines

- Normal Plan Participant COBRA Deadlines
 - Qualified beneficiary (QB) must elect coverage within 60 days of receiving COBRA election notice or date coverage ends, whichever is later
 - QB must make first payment within 45 days of electing COBRA
 - QB must pay subsequent COBRA premiums within 30-day grace period of due date
 - Plan participant must notify employer within 60 days of divorce, legal separation, or child losing dependent status
 - QB must notify employer/administrator within 60 days of COBRA “second event”
 - QB must notify employer/administrator within 60 days of total disability determination

Extended COBRA Timelines

- Extended Participant COBRA Deadlines – COBRA Election Example
 - COBRA qualifying event Apr. 15, 2020
 - Active coverage terminates Apr. 30, 2020
 - Employer sends COBRA Election Notice Apr. 20, 2020

Normal COBRA election must be made by **Jun. 30, 2020**
(60 days from loss of coverage or notice date, whichever is later)

- National Emergency declared over Jun. 30, 2020
 - Outbreak Period ends Aug. 29, 2020 (60 days after emergency declared over)

New COBRA election deadline is **Oct. 28, 2020**
(60 days after the end of the Outbreak Period)

Extended COBRA Timelines

- Extended Participant COBRA Deadlines - COBRA Payment Example
 - COBRA QB premium for May due May 1, 2020

Normal 30-day grace period means QB must pay no later than **May 31, 2020**

- National Emergency declared over Jun. 30, 2020

New May COBRA premium must be made by **Sept. 28, 2020**
(30 days after the end of the Outbreak Period)

- Coverage retroactive to May 1, 2020

Extended HIPAA Special Enrollment Timelines

- HIPAA Special Enrollments
 - Existing Rules –
 - Employee must request HIPAA special enrollment:
 - Loss of other coverage within 30 days of the event
 - Acquisition of a dependent through marriage or birth/adoption within 30 days of the event
 - Loss of Medicaid/CHIP coverage, or becoming newly eligible for a Medicaid/CHIP subsidy, within 60 days
 - Coverage must be effective by 1st of the month following employee notice, except for birth/adoption (coverage effective retroactively to the date of birth or adoption)
 - Extension of HIPAA Special Enrollment Notice Timelines
 - Employees able to request a HIPAA special enrollment for allowed time frame after the Outbreak Period

Extended HIPAA Special Enrollment Timelines

- Extension of HIPAA Special Enrollment Notice - Example

- Employee has a baby May 15, 2020

Normal special enrollment request must be made by
Jun. 15, 2020

- National Emergency declared over May 31, 2020

Employee could request enrollment until **Aug. 29, 2020**
(30 days after the end of the Outbreak Period)

- Coverage retroactive to May 15, 2020

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