



DOL clarifies deadline relief for retirement plans and participants

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Recent guidance from the Department of Labor (DOL) provides some clarity on last year's pandemic relief for retirement plans and participants. The new guidance explains how the extension of certain deadlines applies during the second year of the COVID-19 national emergency. The guidance also describes some steps plans may need to take during the relief period to minimize participants' risk of losing their benefits. However, one detail in the guidance could use further clarification.

2020 pandemic relief

Last year, DOL issued [Disaster Relief Notice 2020-01](#), granting retirement plan sponsors and service providers extra time to provide all notices and disclosures required under Title I of ERISA and to complete certain other plan-related actions. The notice also relaxed certain requirements for plan loans issued or suspended under the Coronavirus Aid, Relief, and Economic Security (CARES) Act ([Pub. L. No. 116-136](#)). At the same time, DOL and the Treasury Department issued a [joint rule](#) giving participants and beneficiaries more time to file benefit claims and appeal adverse benefit determinations and extending several other deadlines for health plans and their participants. This relief is discussed in more detail in [DOL gives retirement plans and participants pandemic relief](#).

The relief is effective for the "outbreak period," defined as the period from March 1, 2020, through 60 days after the announced end of the COVID-19 National Emergency. National emergencies automatically end after one year, unless extended by the president. On Feb. 24, 2021, President Biden [extended](#) the COVID-19 National Emergency into a second year. This raised questions about DOL's and Treasury's pandemic relief, since ERISA and the Internal Revenue Code authorize the agencies to disregard a period of up to one year when determining the required or permitted date to complete any action. The one-year period for the 2020 relief began March 1, 2020, and ended Feb. 28, 2021.

2021 guidance on extended deadlines

On Feb. 26, DOL issued [Disaster Relief Notice 2021-01](#) to clarify how the 2020 disaster relief applies during the second year of the outbreak period. The notice explains that the disregarded period is applied individually to each deadline that arises during the outbreak period. This means deadlines subject to the relief are extended until the earlier of (i) one year after the original deadline or (ii) 60 days after the end of the COVID-19 National Emergency.

The notice includes the following three examples:

- A participant who originally had to make a plan election by March 1, 2020, received an extension until Feb. 28, 2021, to make the election.
- A participant who originally had to make an election by March 1, 2021, now must make the election by the earlier of March 1, 2022, or the end of the outbreak period.
- A plan originally required to furnish a notice or disclosure by March 1, 2020, had to provide the document no later than March 1, 2021. (However, under Notice 2020-01, the plan still should supply the document as soon as administratively possible under the circumstances.)

How long is a year? In the first example, DOL says the deadline for the participant's election is extended from March 1, 2020, until Feb. 28, 2021. However, in the second and third examples, the one-year periods run from March 1 to the following March 1. So it's unclear if DOL considers actions delayed by one year to be due on the anniversary of the original deadline (which would be consistent with a one-year disregarded period) or the day before. Clarification of this point would be helpful.

DOL fiduciary expectations

The new notice says that after the relief expires, participants may continue to encounter problems due to the ongoing pandemic. The agency expects plans to act reasonably, prudently and in the interest of workers and their families who rely on their health, retirement, and other employee benefit plans for physical and economic well-being. Fiduciaries should make reasonable accommodations to prevent the loss of or undue delay in payment of benefits and take steps to minimize individuals' risk of losing benefits because of a failure to meet deadlines.

The new notice suggests that the plan administrator or other fiduciary should consider notifying participants and beneficiaries when extended deadlines are approaching. DOL also notes that disclosures issued before or during the pandemic may need to be reissued or amended if they failed to (or no longer) provide accurate information about the deadlines for participants and beneficiaries to take action (DOL specifically references claims-procedure notices in this context).

Possibility of future relief

The notice reiterates DOL's understanding that full compliance with ERISA's disclosure and claims-processing requirements may not be possible. The agency will continue to emphasize compliance assistance rather than penalties and will provide grace periods and other relief when appropriate. DOL and Treasury are continuing to monitor the effects of the pandemic on employee benefit plans and may issue continued relief as plans move toward normal compliance operations.

Related resources

Non-Mercer resources

- [Disaster Relief Notice 2021-01](#) (DOL, Feb. 26, 2021)
- [Rule](#), Extension of certain timeframes for employee benefit plans, participants and beneficiaries affected by the COVID-19 outbreak (Federal Register, May 4, 2020)
- [Disaster Relief Notice 2020-01](#) (DOL, April 28, 2020)
- [News release](#) (DOL, April 28, 2020)
- [COVID-19 FAQs for participants and beneficiaries](#) (DOL, April 28, 2020)
- [Reporting and disclosure guide for employee benefit plans](#) (DOL, September 2017)

Mercer Law & Policy resources

- [Delving into CARES Act for retirement plan participants](#) (June 22, 2020)
- [DOL gives retirement plans and participants pandemic relief](#) (April 30, 2020)
- [Stimulus bill gives 2020 DB funding relief, access to DC savings](#) (March 26, 2020)

Other Mercer resources

- [Navigating coronavirus](#) (regularly updated)

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