IRS Notice 2021-58 Examples

Examples applying the extensions of timeframes to COBRA elections and payment of COBRA premiums

**Example 1. COBRA election made more than 60 days after receipt of COBRA election notice under the Emergency Relief Notices.**

(i) Facts. Individual A participates in Employer X’s group health plan. On August 1, 2020, Individual A has a qualifying event and receives a COBRA election notice. Individual A elects COBRA continuation coverage on February 1, 2021, retroactive to August 1, 2020. When must Individual A make the initial COBRA premium payment and subsequent monthly COBRA premium payments?

(ii) Conclusion. Individual A has until November 14, 2021 to make the initial COBRA premium payment (one year and 105 days after August 1, 2020), because Individual A did not elect COBRA continuation coverage under the Emergency Relief Notices within 60 days after receipt of the election notice. The initial COBRA premium payment would include monthly premium payments for August 2020 through October 2020. The November 2020 monthly COBRA premium payment would be due by December 1, 2021 (one year and 30 days after November 1, 2020), with premium payments due every month after that for the months that Individual A is eligible for COBRA continuation coverage.

**Example 2. COBRA election made within 60 days of the receipt of COBRA election notice under the Emergency Relief Notices.**

(i) Facts. Individual B participates in Employer Y’s group health plan. Individual B has a qualifying event and receives a COBRA election notice on October 1, 2020. Individual B elects COBRA continuation coverage on October 15, 2020 retroactive to October 1, 2020. When must Individual B make the initial COBRA premium payment and subsequent monthly COBRA premium payments?

(ii) Conclusion. Individual B has until November 29, 2021, to make the initial COBRA premium payment (one year and 45 days after October 15, 2020) because Individual A elected COBRA within 60 days of receiving the election notice. The initial COBRA premium payment would include only the monthly premium payment for October 2020. The November 2020 monthly COBRA premium payment would be due by December 1, 2021 (one year and 30 days after November 1, 2020), with premium payments due every month after that for the months Individual B is eligible for COBRA continuation coverage.

**Example 3. Timeframe for electing COBRA under the Emergency Relief Notices.**

(i) Facts. Individual C participates in Employer Z’s group health plan. Individual C has a qualifying event and is provided a COBRA election notice on August 1, 2020. When must Individual C elect COBRA continuation coverage and, if Individual C elects COBRA continuation coverage, when must Individual C make the initial COBRA premium payment?

(ii) Conclusion. Individual C has until September 30, 2021 (one year and 60 days after August 1, 2020) to elect COBRA continuation coverage. If Individual C elects COBRA continuation coverage after September 30, 2020 (but on or before September 30, 2021) Individual C has until November 14, 2021 to make the initial COBRA premium payment (one year and 105 days after receipt of the election notice). If Individual C makes the initial COBRA premium payment on November 14, 2021, that premium payment would include the monthly premiums for August 2020 through October 2020. The November 2020 monthly COBRA premium payment would be due by December 1, 2021 (one year and 30 days after November 1, 2020), with premium payments due every month after that for the months Individual C is eligible for COBRA continuation coverage.

**Example 4. Failure to make COBRA premium payments under the Emergency Relief Notices.**

(i) Facts. The facts are the same as in Example 1. In addition, Individual A timely makes the initial COBRA premium payment covering the months of August 2020 through October 2020, as well as the payment for the November 2020 monthly premium. Individual A does not make a payment for the December 2020 monthly premium as of December 31, 2021. For how many months does Individual A have COBRA continuation coverage?

(ii) Conclusion. Individual A is entitled to COBRA continuation coverage for the months of August 2020 through November 2020, but Individual A is not entitled to COBRA continuation coverage for any month after November 2020 because Individual A did not pay the December 2020 premium by the end of the applicable grace period. Benefits and services provided by the group health plan (for example, doctor’s visits or filled prescriptions) that occurred on or before November 30, 2020, would be covered under the terms of the plan. The plan would not be obligated to cover benefits or services for Individual A that were incurred after November 30, 2020.

**Example 5. Applying the transition relief for COBRA premium payments due before November 1, 2021.**

(i) Facts. The facts are the same as in Example 1, except that Individual A has a qualifying event on April 1, 2020. Individual A receives the COBRA election notice on April 1, 2020 and elects COBRA continuation coverage on October 1, 2020, retroactive to April 1, 2020. As of July 15, 2021, Individual A has not made the initial premium payment. When must Individual A make the initial premium payment for COBRA continuation coverage retroactive to April 1, 2020 under the Emergency Relief Notices?

(ii) Conclusion. Under the transition relief provided in this notice, Individual A has until November 1, 2021 to make the initial premium payment, even though November 1, 2021 is more than one year and 105 days after April 1, 2020. Although the disregarded periods for the COBRA election and the initial premium payment run concurrently, under the transition relief provided in this notice, an individual will not be required to make the initial premium payment before November 1, 2021, as long as the individual makes the initial premium payment within one year and 45 days after the date of election. November 1, 2021 is less than one year and 45 days after October 1, 2020. Therefore,

Individual A remains eligible to make the initial premium payment by November 1, 2021. The initial COBRA premium payment would include the monthly premium payments for April 2020 through October 2020. The November 2020 COBRA premium payment would be due by December 1, 2021 (one year and 30 days after November 1, 2020), with premium payments due every month after that for the months Individual A is eligible for COBRA continuation coverage.

**Example 6. Failure to make initial premium payment within one year and 45 days of election.**

(i) Facts. The facts are the same as in Example 5, except that Individual A elects COBRA continuation coverage on May 1, 2020. As of October 1, 2021, Individual A has not made the initial premium payment for COBRA continuation coverage beginning April 1, 2020. On October 1, 2021 is Individual A eligible to make the initial premium payment for COBRA continuation coverage retroactive to April 1, 2020 under the Emergency Relief Notices?

(ii) Conclusion. No. October 1, 2021 is more than one year and 45 days after May 1, 2020. The maximum disregarded period related to a particular COBRA timeframe cannot be more than one year. Therefore, Individual A is no longer eligible to timely make the initial COBRA premium payment for COBRA continuation coverage retroactive to May 1, 2020 under the Emergency Relief Notices, despite the availability of transition relief. However, if Individual A is an Assistance Eligible Individual, Individual A has COBRA continuation coverage with COBRA premium assistance for the periods of coverage beginning April 1, 2021. Individual A may continue to pay for COBRA continuation coverage after September 2021 through the end of the period that Individual A is eligible for COBRA continuation coverage, if Individual A remains eligible for COBRA continuation coverage.

Examples applying the ARP COBRA premium assistance

**Example 7. Deadline for retroactive COBRA continuation coverage under the Emergency Relief Notices for a potential Assistance Eligible Individual under the ARP.**

(i) Facts. Individual A works for Employer X and participates in Employer X’s group health plan. On August 1, 2020, Individual A has a qualifying event that is an involuntary termination of employment, and, therefore, is a potential Assistance Eligible Individual under the ARP. Individual A receives a COBRA election notice on August 1, 2020, but, as of September 1, 2021, has not yet elected COBRA continuation coverage. Individual A also receives the notice of the ARP extended election period on May 31, 2021, but does not elect COBRA continuation coverage with premium assistance under the ARP. When is the last date for Individual A to elect COBRA continuation coverage retroactive to August 1, 2020 under the Emergency Relief Notices?

(ii) Conclusion. Individual A has until September 30, 2021 (one year and 60 days after August 1, 2020) to elect COBRA continuation coverage retroactive to August 1, 2020 under the Emergency Relief Notices. Provided Individual A elects COBRA continuation coverage by September 30, 2021, Individual A would have until November 14, 2021 to make the initial COBRA premium payment (one year and 105 days after August 1, 2020). The initial COBRA premium payment would include monthly premium payments for August 2020 through October 2020. The November 2020 premium payment would be due by December 1, 2021 (one year and 30 days after November 1, 2020), with premium payments due every month after that for the months Individual A is eligible for COBRA continuation coverage.

**Example 8. Failure to elect retroactive COBRA continuation coverage under the Emergency Relief Notices by a potential Assistance Eligible Individual under the ARP.**

(i) Facts. Individual B works for Employer Y and participates in Employer Y’s group health plan. On March 1, 2021, Individual B has a qualifying event that is an involuntary termination of employment, and, therefore, is a potential Assistance Eligible Individual under the ARP. Individual B receives the COBRA election notice the same day. Individual B receives the COBRA election notice for the ARP extended election period on May 31, 2021, and elects COBRA continuation coverage with COBRA premium assistance beginning April 1, 2021 but does not elect COBRA continuation coverage retroactive to March 1, 2021. Must Individual B be permitted on or after August 1, 2021, to elect retroactive COBRA continuation coverage beginning March 1, 2021?

(ii) Conclusion. No. Because Individual B elected COBRA coverage with premium assistance under the ARP, Individual B remained eligible only until July 30, 2021 (60 days after the receipt of the notice of the ARP extended election period) to elect COBRA continuation coverage retroactive to March 1, 2021. Employer Y’s group health plan may require Individual B to elect COBRA continuation coverage retroactive to the loss of coverage within 60 days of receiving the notice of the ARP extended election period or lose eligibility for retroactive coverage under the Emergency Relief Notices. Because Individual B did not elect retroactive COBRA continuation coverage (beginning March 1, 2021) under the Emergency Relief Notices by July 30, 2021, Employer Y’s plan is not required to permit Individual B to elect COBRA continuation coverage retroactive to March 1, 2021 under the Emergency Relief Notices. If Individual B had not elected COBRA continuation coverage with premium assistance under the ARP, Individual B would remain eligible to elect COBRA continuation coverage retroactive to March 1, 2021, until April 30, 2022 (one year and 60 days after March 1, 2021). However, COBRA premium assistance under the ARP would not be available for this coverage.

**Example 9. Payment for retroactive COBRA continuation coverage under the Emergency Relief Notices by a potential Assistance Eligible Individual under the ARP.**

(i) Facts. On November 1, 2020, Individual C has a qualifying event that is an involuntary termination of employment, and, therefore, is a potential Assistance Eligible Individual under the ARP. Individual C receives the COBRA election notice on the same date. On April 30, 2021, Individual C receives the notice of the ARP extended election period. On May 31, 2021, Individual C elects both retroactive COBRA continuation coverage beginning on November 1, 2020, and COBRA continuation coverage with premium assistance for the first period of coverage beginning on or after April 1, 2021. When are the deadlines for Individual C to make the initial COBRA premium payment and subsequent monthly COBRA premium payments?

(ii) Conclusion. Individual C has until February 14, 2022 to make the initial COBRA premium payment (one year and 105 days after November 1, 2020). The initial COBRA premium payment would include premium payments for November 2020 through January 2021. The February 2021 premium payment would be due by March 3, 2022 (one year and 30 days after February 1, 2021), and the March 2021 premium payment would be due by March 31, 2022 (one year and 30 days after March 1, 2021). Premium payments would be due every month after that for the months Individual C is eligible for COBRA continuation coverage, except that no payments would be due for the periods beginning on or after April 1, 2021, through September 30, 2021.

**Example 10. COBRA premium payment after the end of the period of COBRA premium assistance by an Assistance Eligible Individual under the ARP and application of the Emergency Relief Notices.**

(i) Facts. The facts are the same as in Example 9, except that Individual C makes the initial COBRA premium payment by February 14, 2022, fails to make the premium payment for the February 2021 period of coverage by March 3, 2022, and fails to make the premium payment for the March 2021 period of coverage by March 31, 2022. Individual C then makes a COBRA premium payment on May 1, 2022. For which months does Individual C have COBRA continuation coverage?

(ii) Conclusion. Individual C has retroactive COBRA continuation coverage for November 2020, December 2020, and January 2021 because Individual C made a timely initial COBRA premium payment under the Emergency Relief Notices. Individual C does not have coverage for the months of February or March 2021 because Individual C did not make timely COBRA premium payments by March 3, 2022 (one year and 30 days after February 1, 2021) or March 31, 2022 (one year and 30 days after March 1, 2021). Individual C has COBRA continuation coverage with COBRA premium assistance for the periods of coverage from April 1, 2021 through September 30, 2021 because Individual C is an Assistance Eligible Individual and made a timely election under the ARP. Individual C also has COBRA continuation coverage for October 2021 (because Individual C made a premium payment on May 1, 2022) unless Individual C indicates that the May 1, 2022 premium payment was intended to pay premiums for a period during which Individual C was eligible for COBRA premium assistance.17 If the premium payment was not erroneously paid for coverage during a premium assistance period, the COBRA premium payment made on May 1, 2022 must be credited to the period following the ARP COBRA period because that COBRA premium payment is timely under the Emergency Relief Notices (the payment on May 1, 2022 is made within one year and 30 days after October 1, 2021). Individual C may continue to pay for COBRA continuation coverage for the period after October 2021 until Individual C has paid for the last of the months that Individual C is eligible for COBRA continuation coverage.

17 Section 9501(b)(1)(D) of the ARP requires premium payees (as described in Notice 2021-31) to reimburse Assistance Eligible Individuals for premium amounts that those individuals would have been required to pay if not for the COBRA premium assistance available under the ARP.