

DOL & IRS Extend Form 5500, HIPAA and COBRA Time Frames For Victims Of Hurricane Katrina

Summary

The Department Of Labor and the Internal Revenue Service have extended certain time frames for employee benefit plans and participants affected by Hurricane Katrina. Final rules were published in the September 21, 2005 Federal Register.

A complete copy of the final regulations is available at:
<http://www.dol.gov/ebsa/regs/fedreg/final/2005018901.pdf>

Affected Participants

Affected individuals are those directly affected by Hurricane Katrina, who were living or working in one of the disaster areas.

Disaster area is defined as the counties and parishes in Louisiana, Mississippi or Alabama that have been or are later designated as disaster areas eligible for Individual Assistance by the Federal Emergency Management Agency (FEMA), because of the devastation caused by Hurricane Katrina.

Affected Plans

An employee benefit plan is directly affected by Hurricane Katrina if the principal place of business of the employer, the office of the plan or the plan administrator; or the office of the primary recordkeeper serving the plan, was located in one of the disaster areas.

Relief Provided

The relief provided is that group health plans, disability and other welfare plans, pension plans, and health insurance issuers subject to part 7 of ERISA, must disregard the period from August 29, 2005 through January 3, 2006 when determining most time periods and dates.

COBRA Time Frames

- (1) COBRA eligible participants have at least 60 days to elect coverage. Affected participants would now have until 60 days after January 3, 2006 to elect COBRA coverage.
- (2) COBRA eligible participants have at least 45 days to pay the initial billing. Affected participants would now have until 45 days after January 3, 2006 to pay the initial billing.
- (3) COBRA eligible participants have at least 30 days from a premium due date to make the payment. They would now have until 30 days after January 3, 2006 to make the payment.

- (4) Individuals have until 30 days after January 3, 2006 to notify the plan of a qualifying event or determination of disability.

- (5) Plan sponsors in the affected areas have until 14 days after January 3, 2006 to provide a COBRA election notice.

HIPAA Time Frames

- (1) Periods of creditable coverage may be disregarded if there was a 63 day break in coverage. Under the new regulation the break in coverage would need to be ignored for the period August 29, 2005 through January 3, 2006.

- (2) Newborn or adopted children can be added without preexisting conditions if they are added within 30 days. Affected participants now have until 30 days after January 3, 2006 to add newborn or adopted children.

- (3) Participants who lost coverage could apply for coverage without preexisting conditions within 30 days of the coverage loss date. This would now be extended to 30 days after January 3, 2006.

- (4) Plan sponsors have until January 3, 2006 to provide automatic certificates of creditable periods of coverage.

Filing Of Claims

Employee benefit plans must establish a procedure for filing of claims and provide claimants with a reasonable opportunity to appeal an adverse determination. Both the time period for filing a claim and/or an appeal have been extended to the plan limitation after January 3, 2006 for affected individuals.

Responsibility For Notifying Affected Participants

While the new regulations do not clearly identify who has the responsibility for notifying participants of the extension opportunities, Section I - Purpose, does include the text below:

It is important that plans and the Agencies take steps to minimize the possibility of individuals losing benefits because of a failure to comply with certain pre-established time frames.

For specific instructions on how you can handle these new requirements in our systems see page 2.

Overview

All BPSC systems have features that will make it easy for you to comply with these requirements. First, you will need to decide whether you want to notify all of the participants in your file of the extension or only those people that you have identified as eligible for relief.

If you choose to notify only those identified as eligible, you will need to take the extra step of creating a user defined field to identify them to the system.

Hold

A person affected by the new time limits can be put on hold with an automatic removal date set at the time the hold is added. While the participant is in a hold status the system will not automatically terminate coverage. See the User Guide or Help for instructions.

When inserting the Hold end date be sure to insert the correct end date. For example, a person who is Notified would have until 60 days after January 3, 2006 to make an election. The September 21, 2005 Federal Register, available from the link on page 1 has numerous dating examples.

Custom Text Added To Letters

You may choose to include some custom text to some of the letters, advising participants of the extension. For example, you could create a custom letter that includes a paragraph like:

"If you lived, resided or worked in one of the Hurricane Katrina disaster areas at the time of the Hurricane you may be eligible for important time period extensions to make your COBRA election and/or premium payments. To be eligible you must have lived, resided or worked in the counties and parishes of Louisiana, Mississippi or Alabama designated as eligible for Individual Assistance by the Federal Emergency Management Agency (FEMA), at the time of the Hurricane".

To find out more about your extension rights please contact the person shown at the bottom of this letter immediately.

You can then include the text in any notice or letter by simply editing the letter and selecting the /LETTER choice from the Data Table drop down - then insert the number of the custom letter containing the text at wherever your cursor is placed in the letter. It would look like this in the letter: /LETTER 5000 (or whatever number you assigned).

If you are not certain of which participants may be eligible for the extension you may want to include the extra text in the Notification, Billing, Grace and Termination letters until the extension period ends.

User Defined Field

If you know which participants are eligible for the extension and only want to include the custom text on those letters you can create a single character logical user defined field. Suppose you named the UDF KATRINA. You could then combine the UDF with a /IF statement in the letters so that the extra text would only output for participants with a Y in the user defined field.

Simply create the UDF following the instructions in the User Guide or Help, then edit the letters that will include the extra text. At the cursor location where you want it to display choose a /IF from the Data Table drop down - then insert the following:

```
/IF {KATRINA}=="Y" then  
/LETTER 5000 (or whatever number you assigned)  
/ENDIF
```

If you were to insert this into the Notification, Billing, Grace and Termination letters it would then only output to those participants with a UDF containing a Y. Of course, you will need to enter the Y in the UDF field for all affected participants.

The Data Exceptions Report

If you have included "participants remaining on hold" as one of the items to include on the data exceptions report, the report will list all people on hold until they are removed from the hold status.

To make sure that you have included participants on hold on the data exceptions report go to process, click on the OPTIONS button, then on the Data Exceptions button - verify that the "Participants remaining on hold" selection is chosen.

EasyCert

If you are using EasyCert you may want to also include special text in your letters. Particularly for the items such as the tolling of the 63 day break in coverage.

Questions

If you need help or have questions about the extension please call our support line.

Future Revision

The current rules only apply to Hurricane Katrina. There is always the possibility that they may be extended to the victims of Hurricane Rita.