

# Frequently Asked Questions Regarding Extension of Deadlines for COBRA Elections, COBRA Payments & Other Items

Pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”), different deadlines apply to certain actions required by you with respect to your benefits from the New York City District Council of Carpenters Benefit Funds. On April 28, 2020, the Department of Labor and the Department of the Treasury jointly issued a rule extending your time to take certain actions because of the ongoing COVID-19 National Emergency (the “Emergency”). These Frequently Asked Questions explain how the extension works.

If additional relief is issued by the Government, we will post it on the Benefit Funds’ website at [www.nycdbf.org](http://www.nycdbf.org).

## 1. What extension of time applies to my obligations to take certain actions regarding my benefits from the NYCDCC Benefit Funds?

The extension is the number of days between March 1, 2020 – the beginning of the national emergency declared by the president – and 60 days after the announcement of the end of the Emergency or such other date announced by the Government. What this means is that the days between March 1, 2020 and 60 days *after* the end of the Emergency do **not** count in calculating your deadline to act in certain matters. We refer to this period as the “Extension.” Because we do not know when the Emergency will end, we do not know the length of the Extension. As soon as the end of the Emergency is announced, we will post in on the Benefit Funds’ website at [www.nycdbf.org](http://www.nycdbf.org).

## 2. What actions does the Extension apply to?

The Extension applies to the following eight actions:

- i. The 60-day period to elect COBRA continuation coverage;
- ii. The monthly due date for making COBRA premium payments;
- iii. The date for you to notify the Welfare Fund of a qualifying event or determination of disability pursuant to COBRA;
- iv. The 30-day period (or 60-day period if applicable) to request special enrollment in the Welfare Fund;
- v. The date to file a benefit claim under any of the Benefit Funds;
- vi. The date to file an administrative appeal of a claim denial under any of the Benefit Funds;
- vii. The date to request an external review of the denial of certain health claims with respect to the Welfare Fund; and
- viii. The date to file information to perfect a request for external review of the denial of certain health claims with respect to the Welfare Fund.

**3. Explain how the Extension applies to electing COBRA continuation coverage.**

*Assumption used in this example:* This example assumes that the Emergency ends on May 31, 2020 and disregards the number of days between March 1, 2020 and July 30, 2020 (the 60<sup>th</sup> day after the end of the Emergency) in determining your deadline to elect COBRA. If the Emergency ends on a different date, your deadline to elect COBRA will be different because the disregarded time period will be different.

*How it works without the Extension:* If you are eligible to elect COBRA coverage to extend your Welfare Fund coverage, you must return the COBRA Election Notice to the Welfare Fund by the 60<sup>th</sup> day after the date of the COBRA Notice.

*Example of how the Extension works:*

- Assume your coverage under the Welfare Fund ended on March 30, 2020 because you did not have enough hours in your bank to maintain eligibility.
- Your COBRA Election Notice is dated April 1, 2020. Without the Extension, you have 60 days from April 1, 2020 to return the Election Notice to the Fund Office.
- Because of the Extension, the 60-day period does not begin to run until the 60<sup>th</sup> day after the end of the Emergency.
- If the Emergency ends on May 31, 2020, the 60-day period will run from July 30, 2020 (rather than the April 1 date of the COBRA Notice), and you will have until September 28, 2020 to return the Election Notice to the Fund Office. Payment must be submitted to the Welfare Fund by no later than 45 days after the postmark date of your COBRA Election Notice. Your payment must include all premiums due from the first day following the day your Welfare Fund coverage would have otherwise ended. If you make fewer than all premium payments owed, your premium payments will be applied to the earliest months of missed payments. You cannot choose which months to have payment applied.

**4. Explain how the Extension applies to paying for COBRA continuation coverage if I miss monthly payments during the Emergency and then make all missed payments within 30 days of the 60<sup>th</sup> day of the end of the Emergency.**

*Assumption used in this example:* This example assumes that the Emergency ends on May 31, 2020 and disregards the number of days between March 1, 2020 and July 30, 2020 (the 60<sup>th</sup> day after the end of the Emergency) in determining your deadline to pay your monthly COBRA premiums.

***How it works without the Extension:*** You must make monthly payments for COBRA coverage, with payments due on the first day of each month of coverage, subject to a 30-day grace period.

***Example of how the Extension works:***

- Assume you had already elected COBRA and were paying for COBRA coverage on March 1, 2020.
- You paid your monthly COBRA premium for February 2020, but you do not pay COBRA premiums for March April, May, or June.
- Without the Extension, if you did not pay your March premium by March 31, 2020 (the last day of the grace period for March coverage), your COBRA coverage ends on February 29, 2020.
- If the Emergency ends on May 31, 2020, premium payments that became due on or after March 1 must be paid by August 29, 2020 – i.e., 30 days after July 30, 2020 (the 60<sup>th</sup> day after the end of the Emergency).
- If you make premium payments for each of the five missed months - March, April, May, June, and July – by August 29, 2020, your coverage will be reinstated retroactively for that entire period and you can continue COBRA for the duration of your COBRA period if you make timely monthly payments going forward.
- The Welfare Fund will not pay any claims on your behalf for any period in which you have not paid your premium. However, if you make timely payment under the Extension, your coverage will be reinstated retroactively.

**5. Explain how the Extension applies to paying for COBRA continuation coverage if I miss monthly payments during the Emergency and then only make some but not all of the missed payments within 30 days of the 60<sup>th</sup> day of the end of the Emergency.**

***Assumption used in this example:*** Same as the preceding example.

***How it works without the Extension:*** Same as the preceding example.

***Example of how the Extension Works:***

- Same facts as the preceding example except that you only pay two months of COBRA premiums by August 29, 2020.
- Because you paid only two months, you will have retroactive COBRA coverage for March and April of 2020, the first two months of your unpaid

COBRA period. Your premium payments will be applied to the earliest months of missed payments. You cannot choose which months to have payment applied.

- You will not be entitled to COBRA coverage after April 2020 and you will be responsible for payment of any healthcare services you received after April 2020.

**6. I have read news reports about the possibility of a COBRA subsidy. What does that mean?**

As part of the response to the 2008 financial crisis, the American Recovery and Reinvestment Act of 2009 was enacted. This federal law reduced the amounts that workers who involuntarily lost their jobs between September 1, 2008, and May 31, 2010 had to pay for COBRA to 35% of the cost of COBRA coverage (rather than the full cost of COBRA coverage), and the Government subsidized the remaining cost.

There have been many calls for the Government to include a COBRA subsidy in a stimulus package in light of the current Emergency. Such relief has ***not*** been included in any of the relief provided to date. We cannot predict whether a COBRA subsidy will be included in a future stimulus package. We will provide updates if a COBRA subsidy is passed.

**7. Explain how the Extension applies to filing a claim for benefits under the Benefit Funds.**

***Assumption used in this example:*** This example assumes that the Emergency ends on May 31, 2020 and disregards the number of days between March 1, 2020 and July 30, 2020 (the 60<sup>th</sup> day after the end of the Emergency) in determining your deadline to file a claim for benefits. If the Emergency ends on a different date, your deadline to file a benefit claim will be different because the disregarded time period will be different.

***How it works without the Extension:*** The Summary Plan Descriptions (the “SPDs”) for each of the Benefit Funds set deadlines by which claims must be filed. The deadlines vary based on the type of claim. The SPDs can be found online by visiting **[www.nyccbf.org](http://www.nyccbf.org)**.

***Example of how the Extension works for a Welfare Fund claim:***

- The Welfare Fund SPD provides that the deadline for filing a claim with Empire for reimbursement is 365 days from when the charge is incurred.
- You incur a charge that is covered by the Welfare Fund on March 1, 2020.
- Without the Extension, you must file the claim with Empire by March 1, 2021.
- You do not submit the claim until April 1, 2021.

- Your claim is still timely because (assuming the Emergency ends on May 31, 2020) the time between March 1, 2020 and July 30, 2020 is not counted in determining the 365<sup>th</sup> day for filing a claim. The 365-day period does not begin to run until July 30, 2020, the 60<sup>th</sup> day from the end of the Emergency.

**8. Explain how the Extension applies to filing an administrative appeal of a denied claim to the Trustees (or other entity responsible for appeals).**

*Assumption used in this Example:* This example assumes that the Emergency ends on May 31, 2020 and disregards the number of days between March 1, 2020 and July 30, 2020 (the 60<sup>th</sup> day after the end of the Emergency) in determining your deadline to file an administrative appeal of a denied claim. If the Emergency ends on a different date, your deadline to file an administrative appeal will be different because the disregarded time period will be different.

*How it works without the Extension:* The SPDs for each of the Benefit Funds set deadlines by which administrative appeals of the denial of claims must be filed. The deadlines vary based on the type of claim.

*Example of how the Extension Works for a Pension Fund appeal:*

- The Pension Fund SPD provides that if your application for a Regular Pension is denied, and you wish to appeal the denial, you must submit an appeal to the Appeals Committee of the Board of Trustees within 60 days of the date of the Fund Office's denial notice.
- The Fund Office's notice of denial of your application for a Regular Pension is dated March 1, 2020.
- Without the Extension, your appeal to the Administrative Committee must be filed within 60 days of the date of the denial notice – in this case, by April 30, 2020.
- Applying the Extension (and assuming the Emergency ends on May 31, 2020), the 60-day period to file an administrative appeal will not begin to run until 60 days after July 30, 2020, which is September 28, 2020.

**9. Explain how the Extension applies to requesting enrollment in the Welfare Fund under a special enrollment period.**

*Assumption used in this example:* This example assumes that the Emergency ends on May 31, 2020 and disregards the number of days between March 1, 2020 and July 30, 2020 (the 60<sup>th</sup> day after the end of the Emergency) in determining your deadline to request special enrollment. If the Emergency ends on a different date, your deadline to request a special enrollment will be different.

***How it works without the Extension:*** If a participant or dependent is entitled under the terms of their coverage to a “special enrollment period,” the Welfare Fund allows a special enrollment opportunity if notice of certain triggering events is provided within 30 days of the event (or, in the case of special enrollment opportunities under the Children’ Health Insurance Program Reauthorization Act of 2009, 60 days). This rule most often applies to the Welfare Fund’s Retiree coverage.

***Example of how the Extension Works:***

- You are enrolled in the Welfare Fund’s Retiree coverage but your spouse is not enrolled because she had coverage through her employer’s health insurance when you began your Retiree coverage.
- Your spouse has a reduction in hours in her job and loses her employment-based health insurance on April 1, 2020.
- Without the Extension, you must request special enrollment for your spouse to be covered by the Welfare Fund by May 1, 2020. Otherwise you must wait until open enrollment in the Fall of 2020, with coverage to begin on January 1, 2021.
- Applying the Extension Period, the 30-day period does not begin to run until the 60<sup>th</sup> day after the end of the Emergency. Assuming the Emergency ends on May 31, 2020, the 30-day period would run from July 30, 2020, and you would have until August 29, 2020 to request special enrollment for your spouse.

Dated: May 2020