IRS CLARIFIES COBRA DUE DATES UNDER COVID EXTENSION

Because of COVID, the IRS previously issued “Emergency Relief Notices” allowing a maximum one-year extension of certain COBRA requirements (e.g., time to elect COBRA, pay COBRA premiums). Recently, the IRS clarified how that extension applies to COBRA premium due dates. Per the IRS, the following rules (with examples) apply:

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

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 [more than 60 days after receiving COBRA Election Notice], retroactive to August 1, 2020. 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.**

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 [within 60 days of receiving COBRA Election Notice] retroactive to October 1, 2020. 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. Important Transition relief for COBRA premium payments due before November 1, 2021.**

Same facts 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. Under the transition relief provided by the IRS, 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, 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.

Important Note: Under this Transition Relief, the initial payment must be made by November 1, 2021.