

Hurricane Helene and Hurricane Milton Natural Disaster Relief for Employee Benefit Plans - Examples

Under the relief, affected benefit plans must disregard the “relief period” before imposing any of the eligible deadlines on a Participant eligible for the disaster relief. The agencies have provided a list of example scenarios in rule [2024-26014](#) and published have additional [FAQs](#).

For Participants: The Department of Labor (DOL) extended the timeframes for special enrollments and COBRA continuation coverage in the Joint Notice. However, those extensions apply only to coverage under the employer group health plan of the Participant. If you have questions about the timeframes that apply to individual health insurance coverage, contact the insurer, an agent or broker, or the Marketplace.

The following examples illustrate the timeframe for extensions required under the relief. In each example, assume that the individual described is directly affected by the hurricane or tropical storm.

COBRA Coverage

TOPIC	RULE	DISASTER RELIEF	EXAMPLE FACTS	NEW DEADLINE
COBRA Election Notice Deadline	Under COBRA, the plan generally must provide a COBRA election notice to individuals who experience a qualifying event within 44 days from the loss of coverage.	The rules extend the deadline for the plan to provide the COBRA election notice to the qualified beneficiary by disregarding the disaster relief period.	<p>An employee located in the Florida disaster area has a COBRA event on 8/31/2024. The employee loses coverage on 9/1/2024.</p> <p>Under the regular rules the employer has until October 15, 2024 to provide the notice.</p> <p>Under the relief, the employer will have 22 days after May 1, 2025 to</p>	After May 1, 2025 the employer will have the remainder of any time remaining in the Election Notice Deadline.

			provide the Election Notice.	
COBRA Election Period	Under COBRA, employees and dependents who lose active coverage as a result of a qualifying event (e.g., termination of employment, reduction of hours) have 60 days to elect continuation coverage from receiving the COBRA election notice.	The rules extend the 60-day COBRA election period by disregarding the disaster relief period.	Employee's hours are reduced causing the employee to lose active coverage under the health plan, which is a COBRA qualifying event.	Once the relief period ends employees will have either: An additional 60 days after the May 1, 2025 deadline to Elect COBRA coverage if their election period started during the disaster relief period. OR After May 1, 2025, the remainder of the days left in the employees election period prior to the disaster relief period.
COBRA Premium Payment Period	Under COBRA, qualified beneficiaries have 45 days from the COBRA election to make the first premium payment, and subsequent	The rules extend the 45-day initial premium payment and 30-day grace period for subsequent premium payment timeframes by	Employee is a COBRA qualified beneficiary who fails to make timely COBRA premium payments by the end of the 30-day grace period for	The employee has until 30 days after the end of the disaster relief period. To make the COBRA premium payment.

	<p>monthly payments must be made by the end of the 30-day period that starts at the beginning of each coverage month.</p>	<p>disregarding the disaster relief period.</p>	<p>October 2024, November 2024, December 2024, and January 2025 through May 2025.</p> <p>The standard 30-day COBRA premium payment grace period is extended by disregarding the disaster relief period.</p>	<p>Premium payments for October, November, December, January, February, March, and April, as well as premium payments for May, are all due by May 31, 2025.</p>
<p>COBRA Notices from Employees Regarding Divorce/Legal Separation, Child Reaching Age 26, and Disability</p>	<p>Under COBRA, the employee or dependent is responsible for notifying the plan within 60 days of the following qualifying events:</p> <ul style="list-style-type: none"> • A divorce or legal separation causing the spouse to lose plan eligibility; • A child losing eligible dependent status (typically upon reaching age 26). <p>For a COBRA qualified beneficiary to qualify for a disability extension of the maximum coverage period,</p>	<p>The rules extend the 60-day employee COBRA notification timeframes by disregarding the disaster relief period.</p>	<p>Employee and spouse are covered under the employer-sponsored group health plan. Employee and spouse finalize their divorce effective April 1, 2020, causing the spouse to lose eligibility for coverage. The 60-day period for the employee/spouse to notify the plan of the divorce to preserve the former spouse's COBRA rights is extended by disregarding the disaster relief period.</p>	<p>The employee and spouse would have until 60 days after the end of the disaster relief period, to notify the plan of the divorce qualifying event and preserve COBRA rights for the former spouse.</p>

	the qualified beneficiary must (among additional requirements) notify the plan within 60 days of the SSA disability determination.			
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Other Benefit Plan Extensions

TOPIC	RULE	DISASTER RELIEF	EXAMPLE FACTS	NEW DEADLINE
HIPAA Special Enrollment Period	<p>In general, HIPAA requires a special enrollment period in certain qualifying circumstances.,</p> <p>Generally, group health plans must allow such individuals to enroll in the group health plan if they are otherwise eligible and if enrollment is requested within 30 days after the occurrence of the qualifying event (or within 60 days, in the case of termination of Medicaid or CHIP coverage, or eligibility for employment assistance under Medicaid or CHIP).</p>	<p>The rules extend the 30-day and 60-day HIPAA special enrollment timeframes by disregarding the Disaster Relief Period.</p>	<p>Employee waived coverage under the health plan. On October 31, 2024, employee gives birth and would like to enroll herself and her newborn.</p> <p>Employee and her child qualify for special enrollment into her employer's plan for coverage that begins on the date of the child's birth, to the extent she satisfies all of the plan's conditions for special enrollment that the plan may apply under Federal law. Individual B may exercise her special enrollment rights for herself and her child until 30 days after May</p>	<p>The Disaster Relief period ends May 1, 2025. The employee would have until 30 days after the end of the Disaster Relief Period to enroll herself and her child in the plan.</p>

			1, 2025, which is May 31, 2025, provided that she pays her share of the premiums for any period of coverage.	
Plan's Benefit Claim Filing Deadline	ERISA-covered employee benefit plans and non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage are required to establish and maintain a procedure governing the filing and initial disposition of benefit claims. The applicable time frames must be included as part of the summary plan description.	The rules extend the plan's deadline to file a benefit claim under the plan's claims procedures by disregarding the Disaster Relief Period.	On October 15, 2023, Individual D received medical treatment for a condition covered under the plan, but a claim relating to the medical treatment was not submitted until October 20, 2024. Under the plan, claims must be submitted within 365 days of the participant's receipt of the medical treatment.	<p>For medical treatment under a group health plan, the covered individual has until May 1, 2025 to submit their claim for a covered medical treatment, plus any remaining time under the plan's claim window.</p> <p>In this example, The plan's standard 365-day benefit claim filing deadline is extended by disregarding the Disaster Relief Period.</p> <p>As of the first day of the Relief Period, the employee had 19 days to file the claim (September 25, 2024, through October 14, 2024). Therefore, the employee last day to submit a claim is 19 days after May 1, 2025, which is May 20, 2025.</p>

ERISA Adverse Benefit Determination Appeal Deadline	<p>ERISA sets forth deadlines for appeals in its claims and appeals procedures rules. Among these deadlines is the 180-day timeframe to appeal an adverse benefit determination under a group health plan or disability plan, and the 60-day timeframe to appeal an adverse benefit determination under any other type of plan.</p>	<p>The rules extend the claimant’s deadline to file an appeal of the plan’s adverse benefit determination by disregarding the Disaster Relief Period.</p>	<p>Employee in Gulf County, Florida receives notification of an adverse benefit determination from the employer-sponsored disability plan on August 28, 2024, which is during the Disaster Relief Period.</p> <p>The 180-day period for the employee to file an appeal of the adverse benefit determination is extended by disregarding the Disaster Relief Period.</p>	<p>Employees will have the remaining appeal period following the end of the disaster relief period to submit a Benefit Determination Appeal.</p> <p>ie. if an employees remaining appeal is 154 days of 180 days the employee will have until October 2, 2025 to appeal, after the end of the Disaster Relief period on May 1, 2025.</p>
ERISA External Review Request Deadline	<p>Under the ERISA appeals procedures for non-grandfathered health plans, claimants have four months after the date of receipt of an adverse benefit determination or final adverse benefit determination to request an external review if the claim involves medical judgment or rescission of coverage.</p>	<p>The rules extend the claimant’s deadline to file an external review request by disregarding the Disaster Relief Period.</p>	<p>Employee receives an adverse benefit determination involving medical judgment from the employer-sponsored group health plan on October 1, 2024. The four-month period for the employee to file an external review request is extended by disregarding the Outbreak Period.</p>	<p>The employee will have until four months from the end of the Disaster Relief Period to file the external review request.</p>
Deadline to Submit Additional	<p>Upon a finding that a claimant’s external</p>	<p>The rules extend the period to</p>	<p>An employee receives an</p>	<p>The employee will have until four</p>

<p>Information Related to External Review Request</p>	<p>review request was not complete, the claimant has until the end of the four-month filing period (or, if later, 48 hours following receipt of notification of an incomplete request) to perfect the request for external review by submitting additional information.</p>	<p>submit additional information related to the external review request by disregarding the Disaster Relief Period.</p>	<p>adverse benefit determination involving medical judgment from the employer-sponsored group health plan on November 1, 2024. Employee submits request for external review on November 15, 2024.</p> <p>On December 15, 2024, the plan notifies the employee that after completion of the preliminary review of the request, the plan has determined that the request is not complete. The four-month period (or, if later, 48-hour period) for the employee to perfect an external review request by submitting additional information is extended by disregarding the Disaster Relief Period.</p>	<p>months from the end of the Disaster relief Period to perfect the external review request by submitting additional information.</p>
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FSA and HRA Run Out

While the final rules contained examples of how the new relief will apply to certain deadlines, the examples did not cover how the relief may affect the benefit claim filing deadlines applicable to Health Flexible Spending Accounts (FSAs) and Health Reimbursement Arrangements (HRAs).

The following chart is based on the examples provided by the departments to illustrate how the relief may operate when determining the run-out period or grace periods for health FSAs and the run-out periods for HRAs. This information is provided as informational only and is not intended to be legal advice.

Health Flexible Spending Account (FSA) Scenarios

Plan Type	Result
Active Employees	
Plan has run-out , plan year ends during the "Disaster Relief Period"	The "Disaster Relief Period" is set to end May 1, 2025. The run-out period will begin May 2, 2025 and last the duration set forth in the plan documents (ie. 30, 60, 90 days).
Plan has a grace period , plan year ends during the "Disaster Relief Period"	<p>The plan's grace period (time to incur new claims) will run for 2.5 months (75 days) from the end of the plan year. Under the relief, the post-grace period run-out will begin to calculate on May 2nd and end the permitted number of days later.</p> <p>Note: this does not change the end date of the grace period, just the deadline to submit claims.</p> <p>For example, a calendar plan year FSA with a grace period and 15-day post-grace period run-out will have until May 16, 2025, to submit claims incurred through the March 15, 2025 grace period.</p>
Non-calendar Plan year with run-out period operating during the "Disaster Relief Period"	<p>A pro-rated run out period will begin when the "Disaster Relief Period" ends.</p> <p>For example, assume an 8/1 non-calendar year plan has a 90-day run out period. Absent the relief, the run-out period would have ended on 10/30/2024.</p> <p>For a participant impacted by Hurricane Helene in Florida, the disaster period started on September 23, 2024. There are 38 days left in this plan's run-out that will resume May 2nd and end 38 days later.</p>
Non-calendar Plan year with grace period operating during the "Disaster Relief Period"	<p>A pro-rated post-grace period run-out period will begin when the "Disaster Relief Period" ends.</p> <p>For example, assume a 7/1 non-calendar year plan has a 75-day grace period and 30-day post-grace period run-out. The grace period ended on 9/14/2024.</p>

	<p>Absent the relief, the post-grace period run-out period would have started on 9/15/2024 and ended on 10/15/2024.</p> <p>For a participant impacted by Hurricane Helene, the disaster period started on September 23, 2024. There are 23 days left in this plan’s post-grace period run-out that will resume on May 2nd and end 23 days later.</p>
Mid-Year Terminations	
Mid-year term during the “Disaster Relief Period”, run out starts after end of plan year	<p>If the “Disaster Relief Period” has ended before the plan year ends, then the run-out would start at the end of the plan year and last the duration set forth in the plan documents.</p> <p>If the “Disaster Relief Period” has not ended by the time the plan year ends, then the run out period would start at the end of the "Disaster Relief Period" and run for the duration set forth in the plan documents.</p>
Mid-year term during the “Disaster Relief Period”, run out starts immediately after term date	The "Disaster Relief Period" is set to end May 1, 2025. The run out period will begin May 2, 2025 and last the duration set forth in the plan documents (ie. 30, 60, 90 days) or the prorated amount of days if the run-out started prior to the start of the “Disaster Relief Period”.

Health Reimbursement Arrangement (HRA) Scenarios

Plan Type	Result
Active Employees	
Plan has run-out, plan year ends during the “Disaster Relief Period”	The "Disaster Relief Period" is set to end May 1, 2025. The run-out period will begin May 2, 2025 and last the duration set forth in the plan documents (ie. 30, 60, 90 days).
Non-Calendar Year Plan with run-out period operating during the “Disaster Relief Period”	<p>A prorated run out period will begin when the "Disaster Relief Period" ends.</p> <p>For example, assume an 8/1 non-calendar year plan has a 90-day run out period. Absent the relief, the run-out period would have ended on 10/30/2024.</p> <p>For a participant impacted by Hurricane Helene in Florida, the disaster period started on September 23, 2024. There are 38 days left in this plan’s run-out that will resume May 2nd and end 38 days later.</p>
Mid-Year Terminations	

Mid-year term during the "Disaster Relief Period", run out starts after end of plan year	<p>If the "Disaster Relief Period" has ended by the time the plan year ends, then the run-out period would start at the end of the plan year and last the duration set forth in the plan documents.</p> <p>If the "Disaster Relief Period" has not ended by the time the plan year ends, then the run-out period would start at the end of the "Disaster Relief Period" and run for the duration set forth in the plan documents.</p>
Mid-year term during the "Disaster Relief Period", run out starts immediately after term date	<p>The "Disaster Relief Period" is set to end May 1, 2025. The run out period will begin May 2, 2025 and last the duration set forth in the plan documents (ie. 30, 60, 90 days) or the prorated amount of days if the run-out started prior to the start of the "Disaster Relief Period".</p>