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| **Disaster Relief for Hurricanes Helene and Milton through May 1, 2025** |

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| Federal agencies have issued [EBSA Disaster Relief Notice 2024-01](https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/disaster-relief/disaster-relief-notice202401.pdf) to provide legally protected relief from certain group health and disability plan deadlines due to the recent hurricanes. The relief requirements are being formally published in the [Federal Register](https://federalregister.gov/d/2024-26014) on November 8, 2024. **All employers** sponsoring ERISA group health and/or disability plans with participants in the Covered Disaster areas must comply. Only non-ERISA governmental and church plans might be exempt, but they are encouraged to participate.If you recall the pandemic Outbreak Period relief, this relief will operate the same way.**Impacted Individuals Eligible for Relief**Group health and disability plans must comply with legally protected “Relief Periods” for individuals who resided, lived, or worked in one of the Covered Disaster areas as follows:

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| **Covered Disaster Area** | **Relief Period** |
| Helene declared disaster areas in FL | 9/23/24 through 5/1/25 |
| Helene declared disaster areas in GA | 9/24/24 through 5/1/25 |
| Helene declared disaster areas in SC, NC, and VA | 9/25/24 through 5/1/25 |
| Helene declared disaster areas in TN | 9/26/24 through 5/1/25 |
| Milton declared disaster areas in FL not already included in the Helene FL disaster areas above | 10/5/24 through 5/1/25 |

**Deadlines Subject to the Relief**Impacted individuals cannot have dates within the Relief Period count toward the following deadlines:* 30-day HIPAA special enrollment rights (60 days for Medicaid/CHIP events)
	+ *Tip: Only birth/adoption results in retroactive coverage. If someone takes extra time to notify the plan of a marriage, loss of other coverage, or Medicaid/CHIP event, coverage will not begin retroactively.*
* 60-day COBRA election period
* The date a COBRA premium is due, including the initial 45-day payment deadline and monthly payment deadlines with grace periods
	+ *Tip: When a qualified beneficiary takes extra time to elect or pay for coverage, the plan “may initially deny claims and then, after premiums are paid, must make retroactive payment” for those claims*
* The date for individuals to notify the plan of a COBRA qualifying event or determination of disability
* Timely filing of a claim, appeal, external review request, or perfecting a request for external review

For a brief example, if an employee in a Covered Disaster area married 10/15/24, they would typically have 30 days (until 11/14/24) to add their new spouse to health coverage. However, all dates from the marriage through 5/1/25 cannot count toward their 30-day deadline. Instead, the 30 days does not start until 5/2/25, giving the employee until 5/31/25 to add their new spouse to health coverage.In addition, group disability plans cannot have dates within the Relief Period count for impacted individuals with respect to timely filing of a claim or appeal.*.***Employers Receive Similar Deadline Relief**The notice also provides impacted employers with similar relief with respect to issuing COBRA notices, as long as they act in good faith to provide the notice as soon as practicable. This may include using electronic means that are reasonably assured the individual will receive or making other reasonable accommodations. The relief applies if the principal place of business, or the principal place of business of employers that employ more than 50% of the active participants covered by the plan, or the office of the plan administrator or primary recordkeeper is in the Covered Disaster areas listed above.Likewise, impacted employers have relief for 5500 deadlines falling within the Relief Period, and impacted multiple employer welfare arrangements (MEWAs) have relief for the federal Form M-1 typically due by 3/1/25. All such deadlines are extended to May 1, 2025, in alignment with the [IRS’s announcements](https://www.irs.gov/newsroom/tax-relief-in-disaster-situations) from October which extended various employer deadlines to May 1, 2025.**Next Steps for Employers**Employers will want to work with their COBRA vendors immediately to ensure COBRA deadlines can be pended for impacted individuals during the legally protected Relief Period. This relief does not apply to everyone across the nation like the pandemic Outbreak Period relief, so it is more nuanced. Thus, allowable exceptions must occur for people who elect late or pay late to have COBRA (or have it reinstated).Likewise, insurance companies and third-party administrators (TPAs) should “deny and pend” incoming COBRA claims for affected individuals and automatically reprocess them at the time a COBRA payment is provided for a date of service the payment covers. This process will be much harder for pharmacy benefit managers (PBMs) to accommodate, so they might just identify a process to reach out to someone who had attempted to fill a prescription while COBRA was “pended” to see if they would like the PBM to request a copy of what the member paid from the pharmacy to reimburse them what the plan would have paid.Employers will also want to communicate with impacted individuals that they have extra time for the deadlines described above. With Outbreak Period relief, the government did not provide model notices to use, so we intend to develop a sample employee communication to assist employers. |
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