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DOL Offers Compliance Flexibility for Benefit Plans Affected by Harvey

The U.S. Department of Labor (DOL) will be flexible on certain deadlines that apply to [group health](#) and [retirement plans](#) in situations where the effects of Hurricane Harvey prevent full compliance, the agency announced August 30.

“Our deepest and most immediate concern is for those who are in harm’s way, and for the first responders who will work tirelessly to help those affected,” Labor Secretary Alexander Acosta said in a statement. “We also realize that employers and employees impacted by Hurricane Harvey will need assistance in dealing with employee benefits issues arising from disruptions in banking and payroll processing.”



Because there may be instances when full and timely compliance by group health plans and issuers is impossible, DOL’s enforcement approach “will be marked by an emphasis on compliance assistance and include grace periods and other relief where appropriate, including when physical disruption to a plan or service provider’s principal place of business makes compliance with pre-established timeframes for certain claims’ decisions or disclosures impossible,” according to the guidance.

By the same token, plans must accommodate the storm’s impact on their participants when necessary, DOL added. “The guiding principle for plans must be to act reasonably, prudently and in the interest of the workers and their families who rely on their health plans for their physical and economic well-being,” the guidance states. “Plan fiduciaries should make reasonable accommodations to prevent the loss of benefits in such cases and should take steps to minimize the possibility of individuals losing benefits because of a failure to comply with pre-established timeframes.”



DOL's [guidance](#) applies generally to employee benefit plans, plan sponsors, employers, employees, and employers' service providers located in a county identified for individual assistance by the Federal Emergency Management Agency due to Harvey.

The Internal Revenue Service also has offered [relief](#) from certain filing and payment deadlines for affected businesses and individuals.

Retirement Plans

DOL specifically addressed certain payments and notices required for retirement plans. "The Department recognizes that some employers and service providers acting on employers' behalf, such as payroll processing services, located in identified covered disaster areas will not be able to forward participant payments and withholdings to employee pension benefit plans within the prescribed timeframe," according to the guidance.

If such a delay is solely due to Harvey, DOL will not bring an enforcement action "with respect to a temporary delay in the forwarding of such payments or contributions to an employee pension benefit plan to the extent that affected employers, and service providers, act reasonably, prudently and in the interest of employees to comply as soon as practical under the circumstances."

Likewise, the requirement to provide 30 days' notice of blackout periods will not be strictly enforced because the exception would apply for situations where "the inability to provide the notice is due to events beyond the reasonable control of the plan administrator and a fiduciary so determines in writing."

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