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<u>Technical Correction to</u>
<u>COBRA Employer Non-Payment "Exceptional Circumstance" SEP</u>

September 17, 2015

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Problem:

There is an existing SEP that was enacted on June 11, 2014 by HBX Executive Board creating an "exceptional circumstance" addressing situations where a consumer loses COBRA coverage because the employer fails to forward those payments to the insurance carrier and thus the consumer is terminated from COBRA through no fault of their own.

Original Language:

> Losing access to COBRA because an employer that is responsible for submitting premiums fails to submit them on time. ***The triggering event shall be the date of the loss of coverage.*** **The length of the SEP shall be based on circumstances as determined by the Authority.** The effective date of coverage shall be based on circumstances as determined by the Authority with the intent of preventing gaps in health coverage for the consumer. (emphasis added)

Federal regulations limit the length of SEPs to 60 days. Therefore, as currently written, it is not compliant with federal law and doesn't work as intended.

Recommended Solution:

To maintain the original intent of the SEP, the staff recommends three modifications to the language:

1) Clarify that the triggering event is the date of notice to the individual that they have lost coverage.

    a. This pushes the date forward from the date of loss, since terminations are always retroactive when based on non-payment and ensures a real 60 day window is granted to the consumer.

2) Remove the language giving the authority broad discretion, and reverting back to the 60 days permitted by 45 C.F.R. 155.420(c)(1), as indicated in the default language preceding all SEP resolutions.

    a. The SEP will now be 60 days from the date of notice of loss of COBRA coverage.

3) Staff also proposes inserting "a portion (or all) of the" in front of premiums because it makes absolutely clear that the employer may not be responsible for all the premium payment and ensures the language is consistent with the other SEP being considered today.

Proposed technical corrections to SEP Language:

Losing access to COBRA because an employer that is responsible for submitting a portion (or all) of the premiums fails to submit them on time. The triggering event shall be when the ~~date of the notice is received by the individual of a~~ loss of coverage. ~~The length of the SEP shall be based on circumstances as determined by the Authority.~~ The effective date of coverage shall be based on circumstances as determined by the Authority with the intent of preventing gaps in health coverage for the consumer.