

INFINISOURCE
BENEFIT SERVICES

Notice 2020-1 COBRA/FSA Runout Timeframe Extensions

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Agenda

- Overview
- Relief for Employees/Beneficiaries
- Relief for Group Health Plans
- Examples of COBRA Timelines
- Example of FSA Runout Timeline
- Infinisource Action Plan
 - COBRA Customers
 - FSA Customers
- Miscellaneous
- Questions

Overview

- Employee Benefits Security Administration (EBSA) issued Notice 2020-1 announcing a joint Final Rule from the Department of Labor and Department of Treasury (IRS) for the extension of certain time frames applicable to group health plans due to the numerous challenges that plan participants and beneficiaries face as a result of the COVID-19 National Emergency.
- To minimize the possibility of individuals losing benefits because of a failure to comply with pre-established timeframes, this Rule extends certain timeframes related to:
 - HIPAA Special Enrollment
 - COBRA
 - ERISA plan rules for filing claims (FSA runout)
 - ERISA rules for filing an appeal to an adverse determination

Relief for Plan Participants, Beneficiaries, Qualified Beneficiaries and Claimants

- Timeframes “Tolled”
- ...plans subject to ERISA or the Code (IRC) **must disregard the period** from **March 1, 2020 until sixty (60) days after the announced end of the National Emergency** or such other date announced by the Agencies in a future notification (the “Outbreak Period”) for all plan participants, beneficiaries, qualified beneficiaries, or claimants wherever located in determining the following periods and dates –
 - (1) The 30-day period to request special enrollment
 - (2) The 60-day election period for COBRA continuation coverage
 - (3) The date for making COBRA premium payments
 - (4) The date for individuals to notify the plan of a COBRA qualifying event or determination of disability
 - (5) The date within which individuals may file a benefit claim under the plan’s claims procedure
 - (6) The date within which claimants may file an appeal of an adverse benefit determination under the plan’s claims procedure
 - (7) The date within which claimants may file a request for an external review after receipt of an adverse benefit determination or final internal adverse benefit determination
 - (8) The date within which a claimant may file information to perfect a request for external review upon a finding that the request was not complete

Relief for Group Health Plans

- “With respect to group health plans, and their sponsors and administrators, the Outbreak Period shall be disregarded when determining the date for providing a COBRA election notice.”
 - Infinisource is not encouraging any delay in getting COBRA Qualifying Event Election Notices sent. Delays may cause even later deadlines for COBRA election periods. Please continue to report COBRA activity as you normally would.

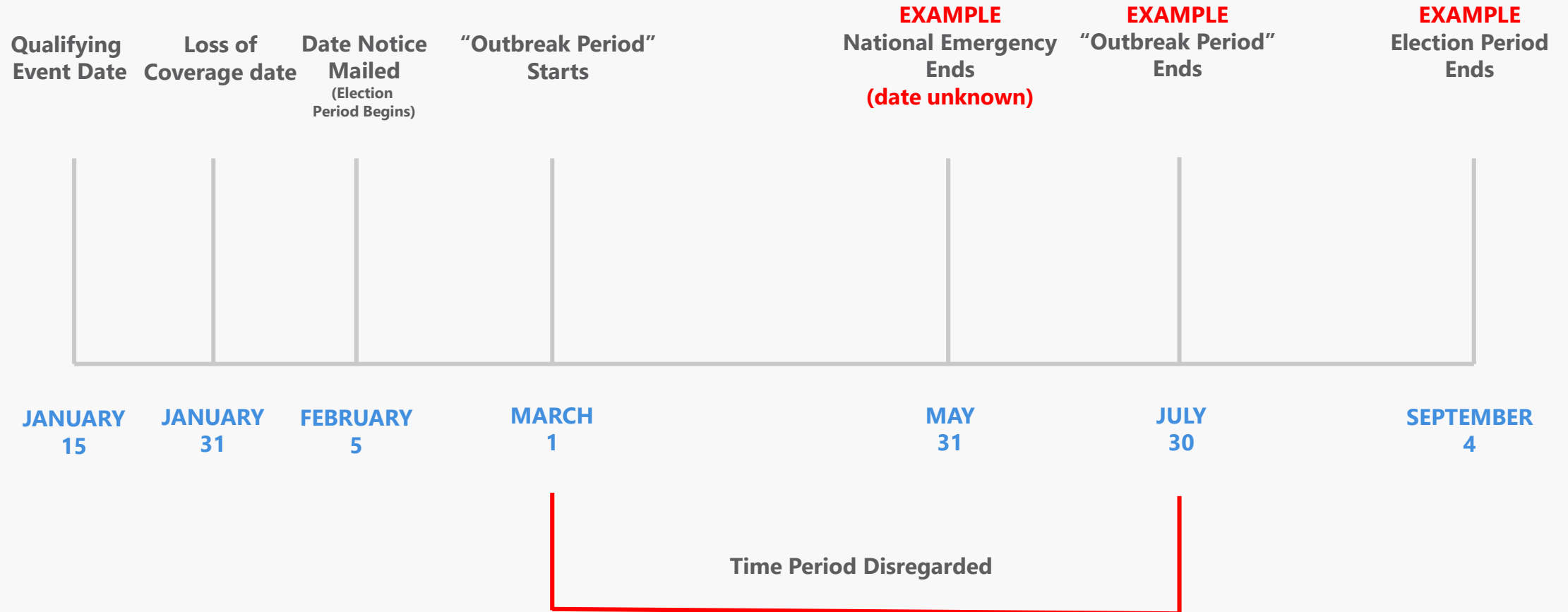
COBRA Timelines - Review

- **COBRA Election period**
 - 60 days from the later of
 - Loss of coverage date
 - Date of notification (postmark date)
- **COBRA premium payments**
 - 45 day retroactive premium payment period
 - Measured from date of COBRA Election
 - 30 day monthly grace period
 - Measured from 1st day of coverage period (typically 1st day of the month)
- **Notification of COBRA qualifying event or disability**
 - Plan participants have 60 days to notify employer of a divorce or dependent ceasing to be an eligible dependent
 - COBRA qualified beneficiaries have 60 days to notify employer of a second qualifying event or a disability determination
- Per Notice 2020-1, the “Outbreak Period” shall be disregarded for these timelines.
- NOTE: We do not yet know when the “Outbreak Period” will end.
- COBRA coverage period (18, 29, or 36 months) does not change.

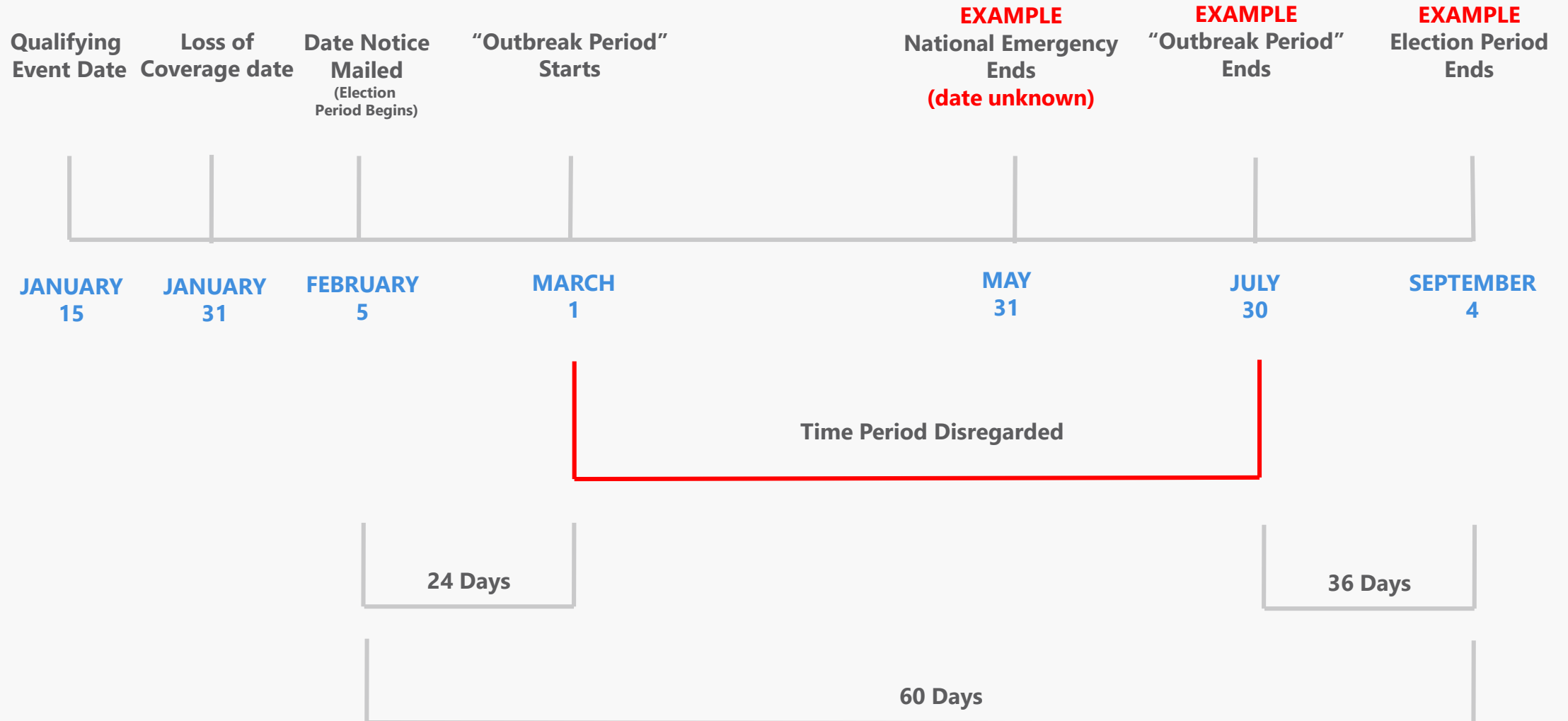
Tolled, Paused, Disregarded – What does it mean?

Example

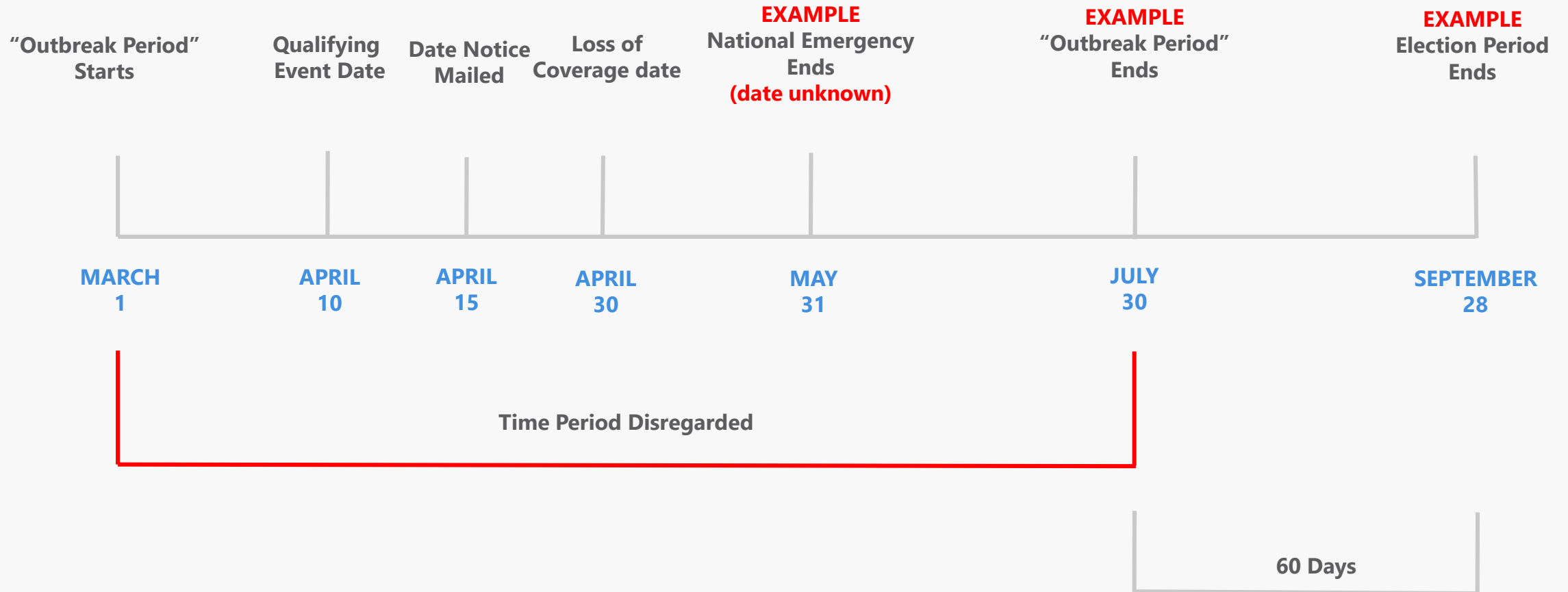
Election Period Example (End of National Emergency and “Outbreak Period” in still unknown)



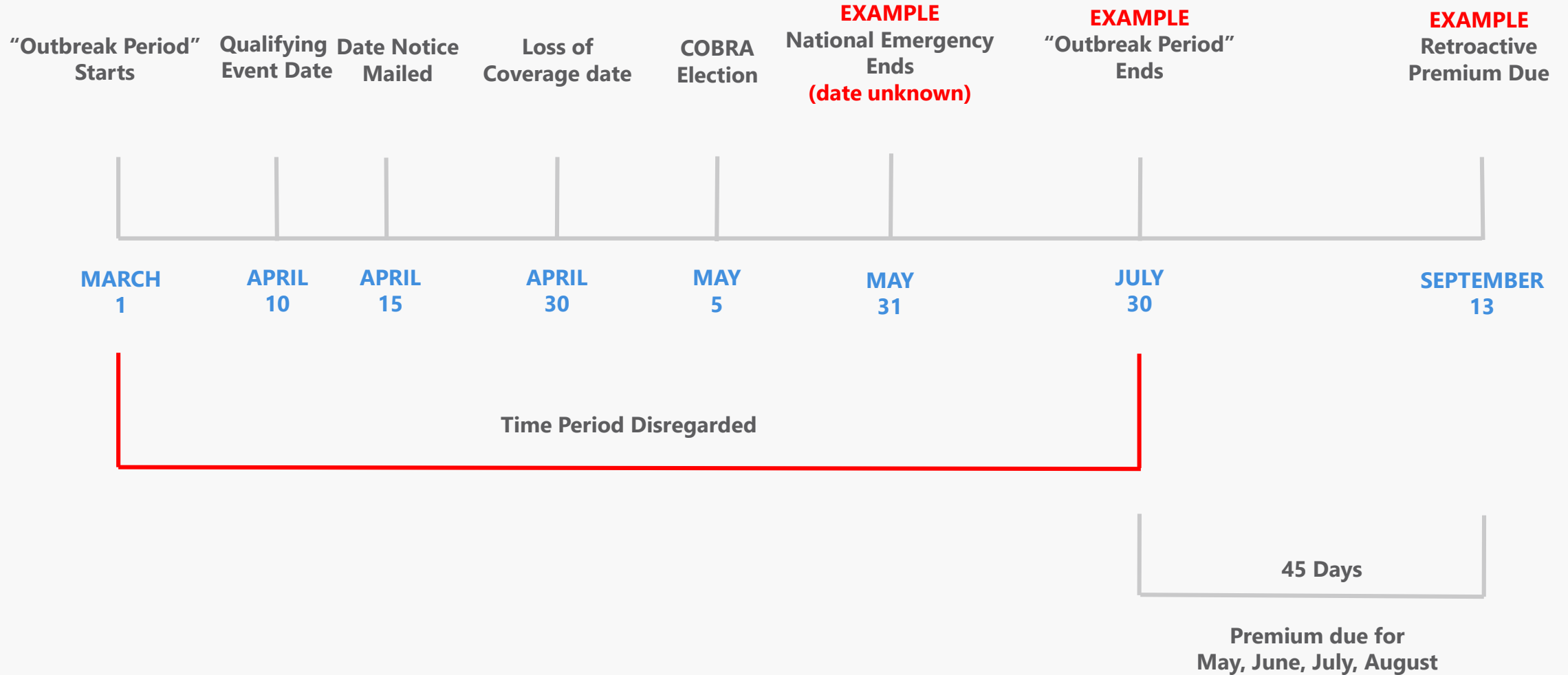
Sample 60 Day COBRA Election Period



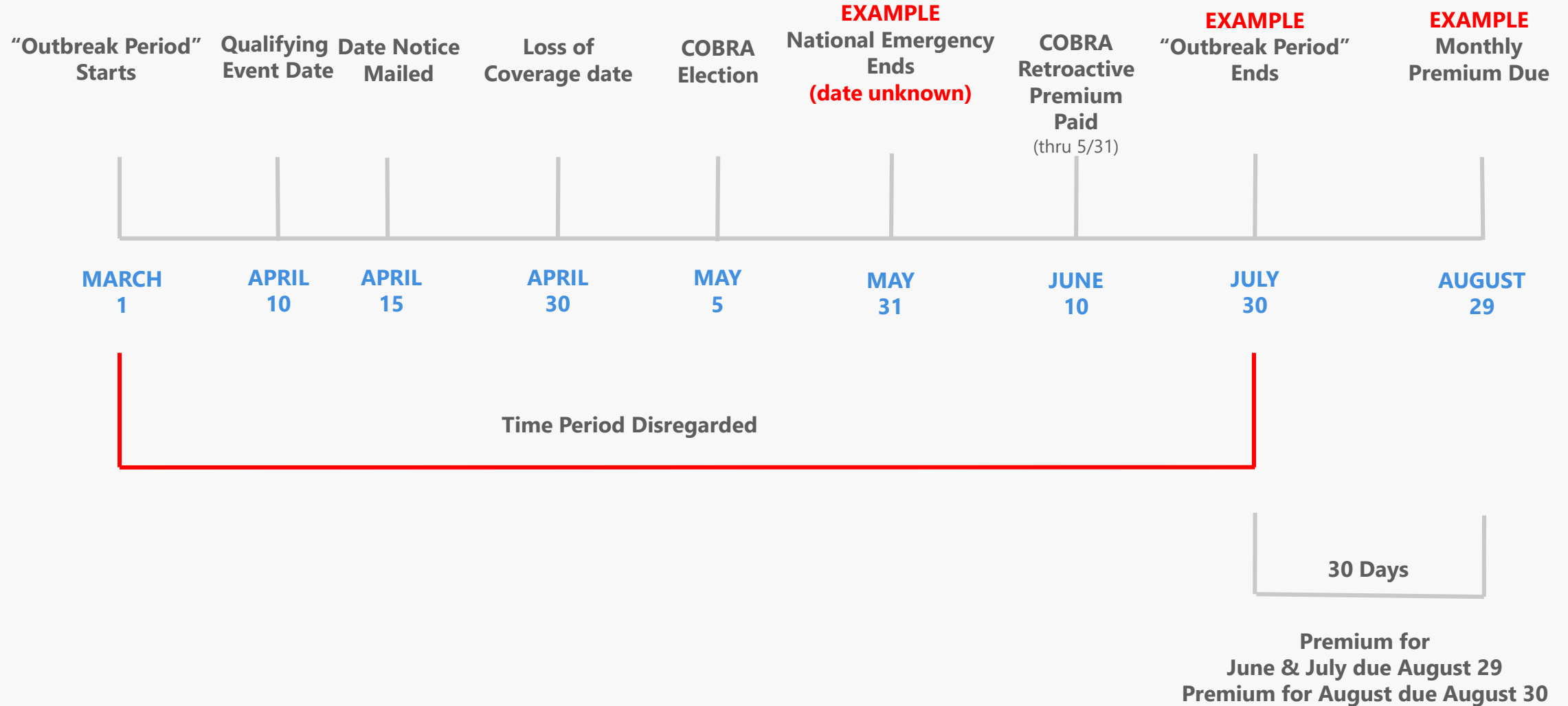
Sample 60 Day COBRA Election Period



Sample 45 Day Retroactive Premium Payment Period



Sample 30 Day Monthly Grace Period



Health FSA/HRA Claims Filing and Appeals Timelines - Review

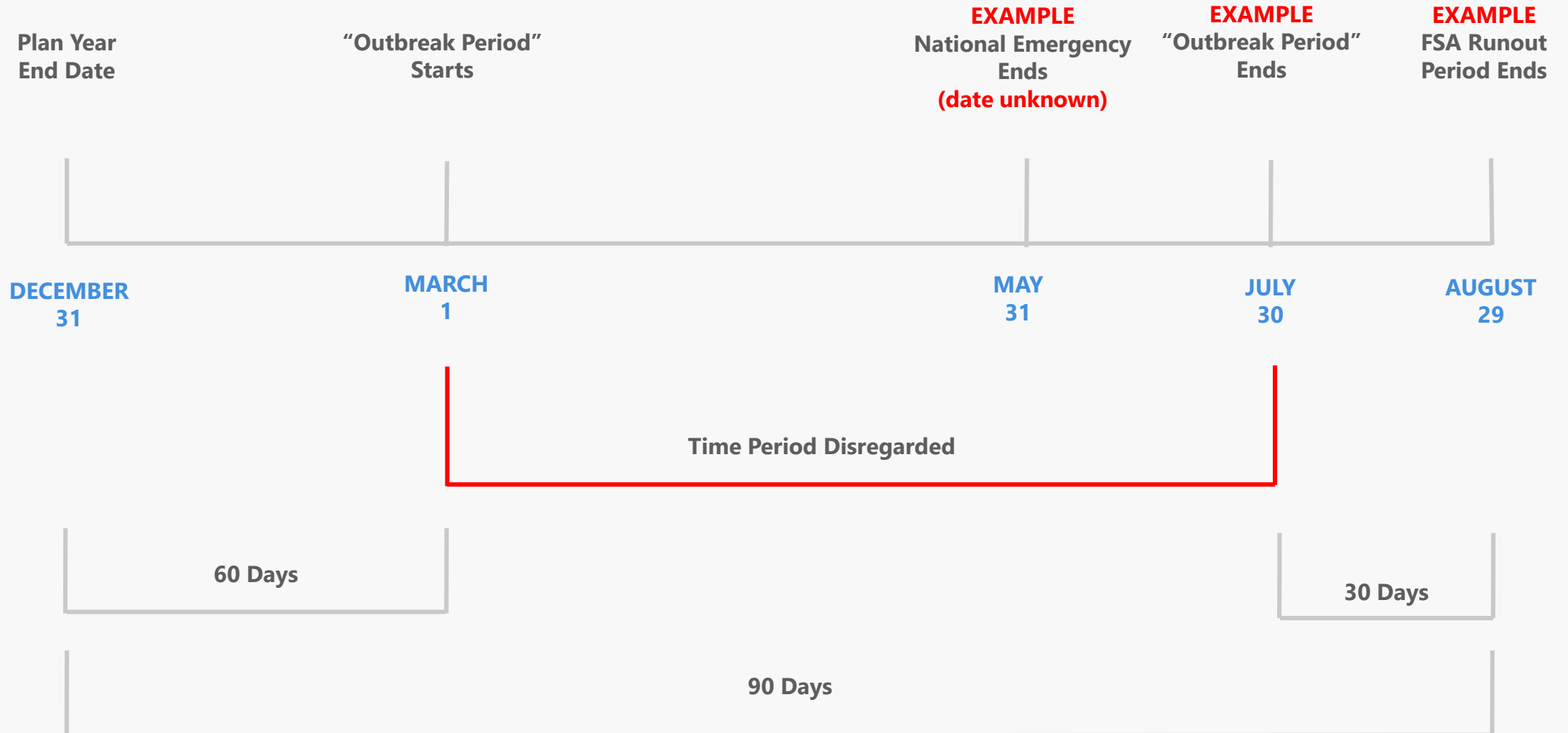
- **Runout Periods**

- Period after the end of the plan year for plan participant to submit eligible claims from the just-completed plan year
- Determined by employer – most common is 90 days

- **Claims Appeal Period**

- 180 Days from the date they denial letter is sent

Sample 90 Day FSA Runout Period



Notification of Timeline Extension

- No specific notice requirement in Final Rule. *HOWEVER.....*
- EBSA Notice 2020-1 provides “General ERISA Fiduciary Compliance Guidance” –

“The Department recognizes that affected plan participants and beneficiaries may encounter problems due to the COVID-19 outbreak. **The guiding principle for plans must be to act reasonably, prudently, and in the interest of the covered workers and their families who rely on their health, retirement, and other employee benefit plans for their physical and economic wellbeing. Plan fiduciaries should make reasonable accommodations to prevent the loss of benefits or undue delay in benefits payments in such cases and should attempt to minimize the possibility of individuals losing benefits because of a failure to comply with pre-established timeframes.**

In addition, the Department acknowledges that there may be instances when plans and service providers may be unable to achieve full and timely compliance with claims processing and other ERISA requirements. Our approach to enforcement will emphasize 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.”

COBRA Customers

1. We are already updating dates to accept elections and payments that would otherwise be late
2. Updating COBRA Election Notices
3. Updating Last Date to Elect and Grace Period date calculations
4. Begin sending COBRA Election Notices with Extended Election Periods
5. Creating FAQs and recordings to help answer participant questions
6. Updating Election Periods and Grace Periods in existing COBRA event records (using temporary dates)
7. Notifying existing COBRA Qualified Beneficiaries of extended dates
8. Conducting client webinars for managing COBRA eligibility using paid through dates
9. At a later date, we will send a second letter to participants to finalize the extended timeframes (after emergency is declared over)

FSA Customers

1. We are already overriding runout periods for claims that would otherwise be late
2. Updating Denial Letters to reflect extended appeals period
3. We will automatically reprocess any claims denied for submission after the runout period (since September 3, 2019)
4. Sending letters to participants who had an available balance at the end of runout period with instructions for submitting runout claims
5. Sending letters to participants with denied claims (for other reasons) with extended appeals period
6. At a later date, we will send a second letter to participants to finalize the extended timeframes (after emergency is declared over)

Miscellaneous

- Notice 2020-1 has nothing to do with the proposed Worker Health Coverage Protection Act which was introduced in the House several weeks ago. We have seen no activity on this bill and it is unknown if anything will come of it.
- State continuation – this ruling does not change state continuation laws. Please consult with your state government for any directive regarding state continuation
- For letters or notifications to COBRA beneficiaries and FSA participants on behalf of Infinisource customers, a per letter/notice fee will be charged.

Questions

A modern office hallway with large windows overlooking a city skyline. The hallway is empty, with a polished floor reflecting the light from the windows. The city skyline is visible through the glass, showing various skyscrapers and buildings. The overall atmosphere is bright and professional.