

Urgent Delivery: USPS Postmark Change Affects Benefit Plans

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By now you have likely heard of the United States Postal Services (USPS) postmark change. Prior to the change, the date an individual provided a piece of mail to the USPS, whether through a USPS collection box receptacle (blue box) or via a USPS mail carrier or clerk, was the date it was processed and postmarked by the USPS. In late December, USPS notified the public of changes in their systems. As part of a streamlining project, USPS will drastically reduce the number of processing centers across the nation, such that the closest processing center may be in the closest major city or even another state, leading to potentially days-long lag between the date the mail is given to USPS and the date the mail receives a postmark.

Postmarks and Benefits Administration

Plan administrators of benefit plans are required to provide a variety of disclosures to participants and beneficiaries, whether summary plan descriptions, annual notices, COBRA notices, and more. Each notice is subject to a specific timeframe, and today the default disclosure method is still by mail, with electronic disclosure available subject to specific conditions.

In litigation, these timeframes come up when a participant argues they did not receive the disclosure timely. The efficiency of the USPS and the postmarking system led to a presumption – the so-called mailbox rule. Under the mailbox rule, the date of an item's postmark is deemed its delivery date. The mailbox rule did not necessarily change with the USPS postmark change, but the sender can no longer assume that the date of mailing is the same date as the postmark. This is best illustrated by an example:

Alexi terminated employment from Box Co. Alexi was covered by the employer's group health plan the day before his termination and has a right to elect COBRA. Alexi's daughter has developmental disabilities and is a high utilizer of the health plan. The deadline to provide the COBRA notice is October 15, 2025. Box Co. self-administers COBRA, and the plan administrator creates the COBRA election notice, and mails it to Alexi's home address by placing it in a USPS blue box on October 14. Alexi never elects COBRA, but in February 2026 Box Co. receives notice of litigation. Alexi is suing because Box Co. failed to offer COBRA because he did not receive the COBRA notice until January 30. When he attempted to enroll, he was told it was too late. COBRA Qualified Beneficiaries have 60 days to elect coverage from the date they receive the election notice.

Under the old USPS system: The COBRA notice was postmarked at the facility on the same day it was put into the blue box. When Alexi produces the notice and envelope in court, the postmark is October 14. Therefore, using the mailbox rule, the court presumes that it was received on October 14, and in fact, Alexi had waited

too long before enrolling. Under this scenario, Box Co. complied with the COBRA requirements and is not required to provide COBRA coverage.

Under the new USPS system: The closest USPS processing center to the blue box that Box Co put the mail in is hours away. Through its new system, USPS postmarks the mail on October 16. When Alexi produces the envelope this time, the court determines using the mailbox rule that the notice was not sent timely. And, as a result, Box Co. must offer COBRA and will be responsible for the claims incurred over the past few months, assuming Alexi pays the COBRA premiums.

Of course, this is an extreme example, but the point is clear, to receive the true benefit of the mailbox rule in litigation, a plan sponsor must ensure that a postmark is placed on or before the deadline to provide a required notice. Plan sponsors can no longer assume that as long as it was mailed by that date, it would also be postmarked on that date.

Practical Considerations

Many employers today use the DOL safe harbor electronic disclosure rules which permits electronic disclosure of required notices electronically to employees with access to the employer's electronic system as an integral part of their job. Employees without that integral access must consent to receive those required notices electronically. For those disclosures, the date provided is clearly defined.

However, there are a variety of individuals and circumstances that might require hardcopy disclosures, such as employees on leave, terminated employees, retirees, QMCSO alternate recipients, and employees who prefer hardcopies, as well as disclosures that must be provided by mail (claims denials, EOBs) or are provided in hardcopy form (e.g., annual enrollment materials or the Medicare Part D creditable coverage notice). For those hardcopy disclosures that must be provided by mail, the new postmark change will affect the date of disclosure. Plan administrators must take care to ensure that the package is postmarked on or before the deadline for that particular notice.

Many carriers and COBRA administrators use another third party to process and postmark the notices provided on behalf of their client's plans with metering machines. Metering machines provide the postmark without it being re-processed through USPS. For employers that hire TPAs to administer a notice requirement, they should ensure that the plan timely notifies the third party of the event to enable that third party to meet the disclosure deadline. However, smaller TPAs might not utilize metering machines, and in that event, it becomes critical that an employer build a process to notify TPAs immediately of an event to enable them to proceed with the timely notification.

Finally, plan administrators that self-administer certain mandates (e.g., FMLA, COBRA, claims administration) should consider obtaining a postmark at their USPS drop-off location, which is available free of charge at the clerk desk. Otherwise, the employer should consider mailing such

notices three to four days in advance of the deadline (possibly more if the deadline falls just after a weekend) to ensure a postmark before the deadline. That extra step can prevent headaches down the road.

Employer Action Steps

The postmark rule change will have an impact on benefit notice requirements, and to mitigate litigation risk, plan administrators might consider steps to ensure any required notices are postmarked timely:

- Consider using the DOL electronic safe harbor to provide certain disclosures electronically to active employees. See our [DOL Electronic Communication Rules](#) for specifics.
- Consider obtaining consent to provide notices electronically under the safe harbor to employees on leave.
- Plan sponsors utilizing TPAs with metering machines should ensure that those TPAs are timely notified of events that trigger disclosures subject to timeframes.
- If a TPA does not use a metering machine, the plan sponsor must plan around that fact by building an internal process to notify the TPA upon the event requiring disclosure.
- For employers that self-administer certain mandates that require timely disclosure, consider obtaining the postmark on those materials at a USPS clerk's desk or plan on mailing disclosures at least three to four days before the deadline.

The intent of this article is to provide general information on employee benefit issues. It should not be construed as legal advice and, as with any interpretation of law, plan sponsors should seek proper legal advice for application of these rules to their plans.