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Part IV

Department of Labor

**Employee Benefits Security
Administration**

29 CFR Parts 2560 and 2590

**Department of the
Treasury**

Internal Revenue Service

26 CFR Part 54

**Additional Extension of Time Frames for
Employee Benefit Plans Affected by
Hurricane Katrina; Final Rule**

DEPARTMENT OF LABOR**Employee Benefits Security Administration****29 CFR Parts 2560 and 2590****DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 54****Additional Extension of Time Frames for Employee Benefit Plans Affected by Hurricane Katrina**

AGENCIES: Employee Benefits Security Administration, Department of Labor; Internal Revenue Service, Department of the Treasury.

ACTION: Extension of time frames.

SUMMARY: This document further extends certain time frames under the Employee Retirement Income Security Act and Internal Revenue Code for employee benefit plans, participants, and beneficiaries affected by Hurricane Katrina.

EFFECTIVE DATE: October 12, 2005.

FOR FURTHER INFORMATION CONTACT:

Amy Turner, Employee Benefits Security Administration, Department of Labor, at 202-693-8335 for HIPAA issues; Fred Wong, Employee Benefits Security Administration, Department of Labor, at 202-693-8523 for COBRA notice and claims procedure issues; or Russ Weinheimer, Internal Revenue Service, Department of the Treasury, at 202-622-6080 for HIPAA, COBRA coverage, and COBRA premium issues.

SUPPLEMENTARY INFORMATION:**I. Background**

On September 21, 2005, the Employee Benefits Security Administration and the Internal Revenue Service published a joint extension of time frames to help

participants, beneficiaries, qualified beneficiaries, and claimants directly affected by Hurricane Katrina who might encounter problems in exercising their health coverage portability or continuation coverage rights, or in filing or perfecting a benefit claim. See 70 FR 55500. ("Original Hurricane Katrina Extension"). This relief was provided under authority in section 518 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1148, and section 7508A of the Internal Revenue Code of 1986 (Code), 26 U.S.C. 7508A.¹ Shortly after the notice was published, the Katrina Emergency Tax Relief Act of 2005 (KETRA) was enacted. Pub. L. 109-73. Section 403 of KETRA provides that any relief provided by the Secretary of the Treasury under section 7508A of the Code shall be for a period ending not earlier than February 28, 2006. Accordingly, this document extends the end of the tolling period of the ERISA and Code provisions under the Original Hurricane Katrina Extension through February 28, 2006.

The Agencies believe that such relief is immediately needed to preserve and protect the benefits of participants and beneficiaries in affected plans. Accordingly, the Agencies have determined, pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d), that there is good

¹ ERISA section 518 and Code section 7508A generally provide that, in the case of an employee benefit plan, sponsor, administrator, participant, beneficiary, or other person with respect to such a plan, affected by a Presidentially declared disaster, notwithstanding any other provision of law, the Secretaries of Labor and the Treasury may prescribe (by notice or otherwise) a period of up to one year that may be disregarded in determining the date by which any action is required or permitted to be completed. Section 518 of ERISA and section 7508A of the Code further provide that no plan shall be treated as failing to be operated in accordance with the terms of the plan solely as a result of complying with the postponement of a deadline under those sections.

cause for making the relief provided by this notice effective immediately upon publication and that notice and public participation may result in undue delay and, therefore, be contrary to public interest.

The relief provided by this document supplements other Hurricane Katrina disaster relief, which can be accessed on the Internet at <http://www.dol.gov> and <http://www.irs.gov>. Information on the scope of the geographic areas eligible for relief is available at <http://www.fema.gov/news/disasters.fema>.

II. Relief

The tolling periods described in paragraphs III.A and III.B. of the Original Hurricane Katrina Extension at 70 FR 55500 are changed for participants, beneficiaries, qualified beneficiaries, or claimants directly affected by Hurricane Katrina (as defined in paragraph III.C.(1) of the Original Hurricane Katrina Extension) and group health plans directly affected by Hurricane Katrina (as defined in paragraph III.C.(3) of the Original Hurricane Katrina Extension). The period group health plans, disability and other welfare plans, pension plans, and health insurance issuers subject to Part 7 of ERISA must disregard is from August 29, 2005 through February 28, 2006.

Signed at Washington, DC, this 4th day of October, 2005.

Ann Combs,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Signed this 7th day of October, 2005.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service, Department of the Treasury.

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