

# FAQs for Participants and Beneficiaries Following Hurricane Maria

U.S. Department of Labor  
Employee Benefits Security Administration  
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The Department is issuing these FAQs to assist employee benefit plans, plan sponsors, employers and employees who were impacted by the devastation caused by Hurricane Maria to better understand their rights and responsibilities under ERISA with respect to their ERISA covered employee benefit plans. In addition to providing this general guidance, the Department has also provided an extension of time for certain notices required to be provided under ERISA for those impacted by these disasters which can be found at <https://www.federalregister.gov/documents/2017/11/22/2017-25332/employee-benefit-plans-participants-and-beneficiaries-affected-by-hurricane-maria>.

## Health Benefit Questions

### **Q1: If my place of employment has closed as a result of Hurricane Maria, am I still covered by my employer's group health plan?**

Even if the employer's physical location has closed, as long as the employer exists, continues to sponsor a plan and employs you, you would generally remain covered under your existing health plan. For information on the coverage through a particular group health plan, you should review the plan's Summary Plan Description (a document often referred to as an SPD or insurance booklet that describes your health coverage). Call the plan administrator and request a copy if you don't have one. Many plans require a contribution from the employee to help pay for health coverage. You may need to make arrangements to make this payment if you are not in pay status for some reason.

### **Q2: My employer's place of business is closed. I cannot locate my plan administrator. Who do I contact to file a claim for benefits, or to obtain replacement identification documents?**

Many employers affected by the events of Hurricane Maria have set up temporary work quarters, or have made other provisions for their employees to contact them. The employer's representative should be able to give you the name of the person to contact to obtain claim forms or other documents.

If it is impossible to locate a contact person for your employer, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

### **Q3: I think I may be losing my health coverage as a result of the events of Hurricane Maria. What can I do to obtain other health coverage?**

As described below, there may be several health coverage options available to you. You should be aware that the guidance provided in the Department's [Extension of Certain Time Frames for Employee](#)

[Benefit Plans Affected by Hurricane Maria](#) may impact the timeframes of certain notices required under the special enrollment and COBRA provisions described below. Therefore, we encourage you to consult that guidance when making your coverage elections.

• **Special Enrollment in Another Group Health Plan** - If you think you or your dependents may be losing health coverage and other group health coverage is available to you (for example, if your family is losing eligibility for coverage under your employer's group health plan and your spouse's employer offers a group health plan), you should consider requesting special enrollment in your spouse's plan. Special enrollment gives you and your family an opportunity to enroll in a plan for which you are otherwise eligible regardless of the plan's applicable enrollment periods. However, to qualify, you must request enrollment within 30 days of losing eligibility for other coverage.

After special enrollment is requested, coverage is required to be made effective no later than the first day of the first month following your request for enrollment. This type of coverage is usually less expensive because the employer often pays a part of the premium.

• **COBRA Continuation Coverage** - If you are losing coverage through an employer that continues to offer a group health plan, you may want to consider electing COBRA continuation coverage. COBRA, which generally applies to employers with 20 or more employees, allows you and your family to continue the same group health coverage at group rates. Your cost may be higher than what you were paying before (and is usually higher than what you would pay for coverage if you special enroll in your spouse's plan), but may be lower than what you would pay for private individual health insurance coverage. You should get a notice from your plan regarding the availability of COBRA coverage. After this notice is provided, you generally have 60 days to elect coverage, 45 days after electing coverage to make your first payment and it is then retroactive to the date of loss of coverage. However, you are not required to wait until you receive the election notice to elect COBRA; you may elect earlier. (Note – If your special enrollment period has passed and you have elected COBRA, you won't be eligible for special enrollment in another group health plan, such as a spouse's plan, until you have a new special enrollment event, such as marriage, birth of a child, or if you exhaust all COBRA coverage available to you.) COBRA coverage typically lasts 18 months, but may last longer in certain circumstances.

• **Individual Health Coverage** - The Health Insurance Marketplace is another way that workers can find health coverage for themselves and their families. The Marketplace offers comprehensive health coverage and individuals may be eligible for a tax credit that will lower monthly premiums and cost-sharing reductions that will lower out-of-pocket costs for deductibles, coinsurance, and copayments. Losing job-based health coverage is a special enrollment event which allows individuals to enroll in a Marketplace plan outside of the annual open enrollment period. To qualify for special enrollment, you must select a plan either within 60 days before losing job-based coverage or within 60 days after losing job-based coverage. The date coverage will start depends on when a plan is selected. Information on Marketplace coverage is available at [HealthCare.gov](#) or by calling 1-800-318-2596 (TTY 1-855-889-4325).

• **Health Coverage through a Government Program** - At [HealthCare.gov](#), individuals also can find out if they qualify for free or low-cost coverage through Medicaid or the Children's Health Insurance Program (CHIP). Medicaid is a state-administered health coverage program for low income families and children, pregnant women, the elderly, people with disabilities, and in some states, other adults. CHIP is a Federal/state partnership that helps provide children – including those in families who do not have health coverage due to a temporary reduction in income – with health coverage. In some states, CHIP also covers parents and pregnant women. Information on Medicaid also can be obtained

through your state Medicaid office. To learn more about the CHIP program in your state, visit [insurekidsnow.gov](http://insurekidsnow.gov).

**Note:** When considering your health coverage options, you should examine the scope of the coverage (including benefit coverage and limitations), premiums, cost-sharing (including co-payments and deductibles), and waiting periods for coverage. For information on the coverage through a particular group health plan, you should review the plan's SPD. Call the plan administrator and request a copy if you don't have one.

**Q4: In order to preserve my right to receive health coverage under certain health care coverage provisions, like COBRA and special enrollment periods, I have to provide certain documentation and notices to my plan within a certain timeframe. Are any of these timeframes being extended?**

As noted above, the Department, along with the Department of Treasury issued guidance under section 518 of ERISA and 7508A of the Internal Revenue Code, respectively, that provides additional time for participants and beneficiaries of group health plans to comply with certain deadlines affecting COBRA continuation coverage, special enrollment, filing claims for benefits, appeals of denied claims, and external review of certain claims. With regard to disability, retirement and other plans, the relief also provides additional time for participants and beneficiaries to make claims for benefits and appeal denied claims. The guidance also provides additional time for plans, plan administrators and employers to provide certain COBRA notices. The guidance can be accessed here: <https://www.federalregister.gov/documents/2017/11/22/2017-25332/employee-benefit-plans-participants-and-beneficiaries-affected-by-hurricane-maria>

**Q5: I lost my spouse as a result of Hurricane Maria. My spouse's employer has agreed to pay the premiums for my health coverage for 12 months. What effect will that have on any future eligibility for continuation health coverage under COBRA?**

You should ask the employer for more information. The employer could be:

- Making this offer of paid coverage only if COBRA coverage is declined. In this case, if you elect paid coverage for 12 months, you will be ineligible for COBRA coverage, which is more expensive, but lasts longer.
- Paying the first 12 months of COBRA coverage. In this case, you will be able to continue coverage at your own expense for up to 24 additional months. However, keep in mind plans and issuers are not required to offer a special enrollment opportunity at the end of the 12-month employer subsidy.
- Delaying your loss of coverage so that you will be able to have COBRA coverage at your own expense for up to 36 additional months.

You may be able to get coverage through the Health Insurance Marketplace that costs less than COBRA continuation coverage. The Health Insurance Marketplace provides special enrollment periods for certain qualifying events including loss of health coverage due to the death of a family member or when an employer stops contributing to a temporary continuation of your coverage (such as COBRA). For more information, please visit <https://www.healthcare.gov/coverage-outside-open-enrollment/special-enrollment-period/>.

**Q6: Can my employer terminate or reduce my health benefits?**

Employers offer health benefits on a voluntary basis. Federal law does not require employers to offer health coverage to their employees nor does it prevent employers from cutting or reducing benefits in many instances. Employees and their families may have a right to continuation coverage under COBRA if the plan still exists and may have a contractual right to coverage if, for example, benefits are required under a collective bargaining agreement. In addition, a plan cannot deny eligibility or continued eligibility based on health status. For information on the Affordable Care Act and how it relates to employers offering health coverage, visit the website [HealthCare.gov](http://HealthCare.gov).

**Q7: I am a retiree and I receive retiree health benefits from my former employer. The company was affected by the events of Hurricane Maria. Can my retiree health benefits be terminated or changed?**

Providing for health care is an important part of retirement. Some employees are fortunate they belong to employer-provided health care plans that carry over into retirement. Employees and retirees should know that private sector employers are not required to promise retiree health benefits. Furthermore, when employers do offer retiree health benefits, nothing in federal law prevents them from cutting or eliminating those benefits - unless they have made a specific legally binding promise to maintain the benefits. The key to understanding your retiree health benefits lies in the documents governing your plan. If you have not already done so, you should obtain a copy of the Summary Plan Description to determine the nature of the employer's promise to you.

**Q8: My employer did not pay my insurance premium. May I pay the premium to continue my coverage?**

You should contact your employer to determine the employer's intent to pay the premium. You may wish to contact the insurance company to determine how long the payment has been in arrears, if the insurance company has provided a grace period for late payment, and how long the employer has been given to make the payment. You may also wish to contact your state insurance commissioner regarding any rights you may have under state law to pay premiums directly to the insurance company or convert your health coverage to an individual policy. If your premiums are in arrears or your coverage has been cancelled as a result of the employer's failure to make the premium payment, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

**Q9: I had COBRA coverage prior to Hurricane Maria. The location I was sending my COBRA premium to is closed. Where do I send my premium?**

Many employers affected by the events of Hurricane Maria may set up temporary work quarters, or have made other provisions for their employees to contact them. The employer should be able to give you the information needed to continue making your COBRA premium payments. If it is impossible to locate a contact person for your employer, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

**Q10: There is so much going on in our lives right now. Why is focusing on health coverage important?**

Although it may be hard to think about health coverage right now, it is important that you don't wait too long before considering your options and making a health coverage decision. Because several of your best choices are only available for a limited time, waiting may eliminate some of your best

options. Generally, special enrollment in your spouse's plan must be requested within 30 days of loss of eligibility for other health coverage and COBRA continuation coverage must be elected within 60 days of when the COBRA election notice is provided to you. Even though the Department has extended those timeframes in the guidance provided in the [Extension of Certain Time Frames for Employee Benefit Plans Affected by Hurricane Maria](#), you should be aware of the limited time available to exercise your healthcare coverage options.

### **Q11: Where can I get more information on my health coverage options?**

For more information on your health benefits rights and options, the following publications are available on our Website or by calling 1-866-444-3272:

- *Retirement and Health Care Coverage...Questions and Answers for Dislocated Workers [en español]*
- *An Employee's Guide to Health Benefits Under COBRA [en español]*

Department's [Extension of Certain Time Frames for Employee Benefit Plans Affected by Hurricane Maria](#)

The Affordable Care Act (ACA) provides additional health protections. For more information, visit the Department of Labor's Web page at [www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-workers-and-families](http://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-workers-and-families) or [www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers](http://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers).

If you still have questions about your rights, or need assistance in obtaining your benefits, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

## **Retirement Benefit Questions**

### **Q12: My employer's place of business is closed due to the events of Hurricane Maria. Who should I contact to file a claim for retirement benefits or make sure that I will continue to receive my pension payments on time?**

Every retirement plan is required to have a plan administrator. The plan administrator may be the employer (or labor organization) sponsoring the benefit plan or it may be some individual or entity appointed to serve as the plan administrator. Retirement plans must provide participants with a Summary Plan Description (SPD) describing the plan rules in plain English. The SPD should also contain information on how to identify and locate the plan administrator, as well as steps to follow in applying for a benefit. Whenever possible, a participant should first try to contact the plan administrator for information on benefits. A second point of contact may be the employer's human resource or personnel department. If the plan employer's place of business is closed and no temporary work quarters have been established, it may not be possible to contact the plan administrator or the employer. However, there may be others who may be of help. These include the plan trustee who holds the plan assets, a mutual fund, insurance company, bank or other financial institution providing services to the plan, a third party who handles the administrative functions of the plan, or the plan accountant. These persons may be identified in plan correspondence or benefit statements that you may have received previously. When it is impossible to contact the plan administrator, the employer or other officials mentioned above, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

**Q13: My pension payment normally arrives on a particular day each month. It did not come this month. What should I do?**

Call your plan administrator to determine the reason for the delay in the receipt of your payment. Ask whether the plan is having operational problems or whether this problem is limited to your payment. If the problem is limited to your payment, discuss how to resolve your problem with the administrator. If the delay involves a plan operation issue, ask what efforts are being made to make timely payments. Your employer or former employer may be able to get answers to your questions. Parent or subsidiary companies of your employer also may be able to help you get information on the status of payments. Firms providing services to your plan such as third party administrators, investment advisors and trustees may also be able to provide you with information about benefit payments. If you are still unable to get information about the status of your benefits, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

**Q14: How can I make changes in the way my 401(k) plan account is invested if it was affected by the events of Hurricane Maria?**

Begin by attempting to make changes through normal procedures contained in your Summary Plan Description or other plan documents. If your employer or the financial services firm holding your account was affected by the events of Hurricane Maria, there may be a delay in making changes to your investments. In this event, you should contact the plan administrator or other plan officials such as the employer sponsoring the plan, trustee, or the party providing administrative services to the plan to determine what steps are being made to restore the plan's normal operations. If you are unable to obtain this information, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

**Q15: Can I get money out of my retirement plan if I need financial assistance to help me at this time?**

Many individual account plans provide for loans to plan participants. However, federal law does not require plans to make loans. Your Summary Plan Description (SPD) or other plan documents should provide information concerning any right you may have with respect to such loans. You will be able to obtain a loan only if the plan has a loan program.

Your plan may also permit withdrawals in the event of hardship, disability or termination of employment. Federal law, however, does not require that plans provide for such withdrawals. Your SPD or other plan documents should provide information concerning any right you may have with respect to such withdrawals.

Withdrawing money from your plan may have tax or other adverse consequences. (See the following question.) You may be able to take advantage of streamlined loan procedures and liberalized hardship distribution rules if you or certain members of your family live in the areas affected by Hurricane Maria. If you wish to take money out of your retirement plan in the form of a loan or a hardship withdrawal, you should contact your plan administrator, plan sponsor, or other plan official. If you are unable to contact any of these officials, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.

**Q16: Are there any potential adverse effects if I receive my retirement benefits prior to normal retirement age?**

Yes. Receiving a lump sum or other distribution from your retirement plan may affect your ability to receive unemployment compensation. You should check with your state unemployment office. Receiving money from your retirement plan may result in additional income tax. You can defer these taxes, however, if you keep the money in your plan or if you "roll over" any amounts that are eligible for rollover into a qualified retirement plan or Individual Retirement Account (IRA). There are provisions in the Internal Revenue Code that govern these rollovers.

If you cash out your 401(k) when leaving a job and you are younger than 59½ years old, you may have to pay a 10% penalty, along with state and federal taxes.

During difficult economic times, you may look at your 401(k) balance and think that you need the money now more than you will later. And of course, there may be times when it will be the last resort to which you have to turn for a loan or a "hardship withdrawal." These actions, however, may result in a permanent reduction of your retirement savings.

So, before you act, make sure you understand the differences between loans, hardship withdrawals, rollovers, and lump sum cash outs, including the long-term consequences of each.

#### **Q17: When must my retirement plan pay my claim for benefits?**

A plan may take a reasonable amount of time in order to review a claim for benefits before making a payment. Plan administrators must act prudently and follow the procedures in the plan documents. Your Summary Plan Description (SPD) or other plan documents should provide information on those procedures. If you have specific questions, you should contact the plan administrator. Some plans pay benefits only after a participant reaches the normal retirement age specified in the plan and terminates employment. Many plans, however, allow for earlier distribution of benefits under certain circumstances. The rules permitting earlier distribution of benefits will be contained in the plan document or SPD. For example, some plans may require a participant to be separated from employment for a specified period of time or reach a specified age before being eligible to receive a benefit.

#### **Q18: Is my retirement plan required to give me a lump-sum distribution?**

Federal law does not require that plans provide for lump sum distributions. Many plans, however, allow lump sum distributions. Consult the plan documents or Summary Plan Description to determine your eligibility for a lump sum distribution and any spousal consent requirements. If you are in a traditional defined benefit pension plan (a plan in which you receive a benefit based on a formula established in the plan) you usually may choose to retire and begin receiving your benefits at the retirement age specified in the plan. These types of plans are less likely than defined contribution plans (such as 401(k) plans) to allow you to receive your benefits in a lump sum.

#### **Q19: I am the spouse of a deceased plan participant. How do I know what benefits I am entitled to; how do I file a claim; and what proof will I need to give the plan?**

One of the most important documents you should have is the Summary Plan Description (SPD). It outlines the plan rules including benefit rights, the way benefits are calculated, how to apply for benefits, and how to appeal a denial of a claim for benefits. A copy of the SPD must be provided when a plan participant or beneficiary requests it in writing. If you do not have a copy of the SPD, you should contact the plan administrator. In addition to the SPD, you can ask the plan administrator to provide you information about the amount of benefits your spouse had earned to date and vesting

status (the amount of benefits earned that cannot be forfeited). This is important information for you, whether you withdraw your money now or later.

You should also ask the plan administrator what information the plan requires to decide your claim and how to file the claim.

**Q20: If I am entitled to receive benefits from my spouse's retirement plan based on the terms of a divorce or separation, what should I do to make sure my rights are protected?**

If you have been awarded a portion of your former spouse's retirement benefits in a domestic relations proceeding, you may wish to verify that the plan administrator still has records of the determination that you are entitled to benefits under the plan. If the plan's records have been destroyed, you may need to provide the plan with a copy of the domestic relations order that established your entitlement to benefits under the plan.

You should also provide the plan with any other evidence you may have that the order was sufficient and that you were entitled to benefits. Other evidence might include a benefit statement from the plan showing your benefit.

**Q21: If my employer faces economic difficulties as a result of the events of Hurricane Maria, can my employer terminate my retirement plan, and if so, what happens to my benefits?**

Federal law generally does not prohibit employers from terminating their retirement plans. The law does protect your rights to benefits earned before the plan is terminated and requires that employers follow certain rules when terminating plans. There is, however, no right to earn additional benefits under the plan. The benefits you are entitled to will depend on the type of plan you participate in and how long you have worked for the employer. If you were covered by a traditional defined benefit pension plan, the benefits you may be entitled to generally will depend on a formula that is contained in your plan documents and Summary Plan Description (SPD). The plan's formula may include factors such as age, length of service and pay. Benefits may not be payable under the plan until you reach normal retirement age, generally age 65 or some other age specified in the plan documents and SPD. The termination of defined benefit pension plans is also regulated by the Pension Benefit Guaranty Corporation (PBGC), which guarantees certain benefits in the event that the plan's assets are not sufficient to pay benefits. For information on the PBGC's plan termination insurance program, contact the PBGC's Customer Service Center at 1-800-400-7242.

If you were covered by a defined contribution plan, such as a 401(k) plan, profit sharing, or employee stock ownership plan, each participant has an individual account in the plan. Contributions, earnings, and investment gains or losses are credited to this individual account. You are always 100% vested in any contributions you made to the plan, including investment gains and earnings on your contributions, less any investment losses. In addition, depending on the terms of the plan, you may be vested in part or all of your employer's contributions. You will be automatically 100% vested in the employer contributions to the plan when the plan is terminated.

**Q22: All of the records concerning my employment with the retirement plan sponsor and my participation in the retirement plan were destroyed as a result of the events of Hurricane Maria. What do I do?**



You should search your personal records for any material or documents that would help to establish your employment and participation in the plan. Look for pay statements and W-2 forms showing that you were covered under a plan and the amount you may have contributed to the plan. You also may have benefit or account statements issued by the plan that you may be keeping with your important papers. For example, many 401(k) plans distribute regular account statements. These records may show the names of the investment vehicles in which your 401(k) account was invested. When you began employment with the employer sponsoring the plan, you may have been given an employee handbook and beneficiary designation forms to complete. You may have copies of these that may also help to establish your rights under the plan.

### **Q23: Where can I get more information on my retirement benefit rights?**

More information on your retirement benefits rights is available in the following publications:

- *Retirement and Health Care Coverage... Questions and Answers for Dislocated Workers [en español]*
- *What You Should Know About Your Retirement Plan [en español]*

You may also call 1-866-444-3272 to request copies of publications.

For information on a particular retirement plan, you should review the plan's Summary Plan Description. Call the plan administrator and request a copy if you don't have one. If you still have questions about your rights, or need assistance in obtaining your benefits, you may contact one of our benefits advisors electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling 1-866-444-3272.