



Fact Sheet

U.S. Department of Labor
Employee Benefits Security Administration

Guidance and Relief for Employee Benefit Plans Impacted by the Nebraska Severe Winter Storm, Straight-line Winds, and Flooding; the Iowa Severe Storms and Flooding; and the Alabama Severe Storms, Straight-line Winds, and Tornadoes

The U.S. Department of Labor has published employee benefit plan compliance guidance and relief for victims of the 2019 Nebraska Severe Winter Storm, Straight-line Winds, and Flooding (FEMA-DR-4420), 2019 Iowa Severe Storms and Flooding (DR-4421) and the 2019 Alabama Severe Storms, Straight-line Winds, and Tornadoes (FEMA-DR-4419) (the "Covered Disasters").

The Department recognizes that a natural disaster may impede efforts by plan fiduciaries, employers, labor organizations, service providers, and participants and beneficiaries to comply with the Employee Retirement Income Security Act (ERISA) over the next few months.

This guidance generally applies to employee benefit plans, plan sponsors, employers and employees, and service providers who were located in a county, tribal area or other geographic area identified now or in the future for individual assistance by the Federal Emergency Management Agency (FEMA) because of the Covered Disasters. Go to FEMA's website at www.fema.gov/disasters for information on identified counties or areas.

Verification Procedures for Plan Loans and Distributions

If an employee pension benefit plan fails to follow procedural requirements for plan loans or distributions imposed by the terms of the plan, the Department will not treat it as a failure if:

- that failure is solely attributable to the Covered Disasters;
- the plan administrator makes a good-faith diligent effort under the circumstances to comply with those requirements; and
- the plan administrator makes a reasonable attempt to assemble any missing documentation as soon as practicable.

Participant Contributions and Loan Repayments

The Department recognizes that some employers and service providers located in covered disaster areas will not be able to forward participant payments and withholdings to employee pension benefit plans within prescribed time frames. In such instances, the Department will not – solely on the basis of a failure attributable to a Covered Disaster – take enforcement action with respect to a temporary delay in forwarding such payments or contributions to the plan. Affected employers and service providers must act reasonably, prudently, and in the interest of employees to comply as soon as practicable under the circumstances.

Blackout Notices

In general, the administrator of an individual account plan is required to provide 30 days' advance notice to participants and beneficiaries whose rights under the plan will be temporarily suspended, limited or restricted by a blackout period. For instance, a period of suspension, limitation, or restriction of more than three consecutive business days on a participant's ability to direct investments, obtain loans or obtain other distributions from the plan results in a blackout period and triggers the advance notice. The regulations provide an exception to the advance notice requirement when the inability to provide the notice is due to events beyond the reasonable control of the plan administrator and a fiduciary so determines in writing.

For blackout periods related to a Covered Disaster, the Department will not require a fiduciary determination, as natural disasters are by definition beyond a plan administrator's control

ERISA Claims Compliance Guidance

The Department recognizes that affected plan participants and beneficiaries may encounter problems due to a Covered Disaster. The guiding principle for plans must be to act reasonably, prudently, and in the interest of the 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 time frames.

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 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.

Filing Relief

Form 5500 Annual Return/Report filing relief is provided in accordance with the relevant Covered Disaster news releases listed on the [IRS disaster relief website](#). See Treasury Regulations under Revenue Code § 7508A and Section 8 of Rev. Proc. 2018-58, 2018-50 I.R.B. 990.

Contact Information

The Department will continue to monitor and respond to the situation as appropriate. For more information, visit EBSA's Disaster Relief pages for employers and advisers and workers and families, or contact the Department's Employee Benefits Security Administration at www.askebsa.dol.gov or 1-866-444-3272. Questions about IRS guidance should be directed to the IRS at 1-877-829-5500.