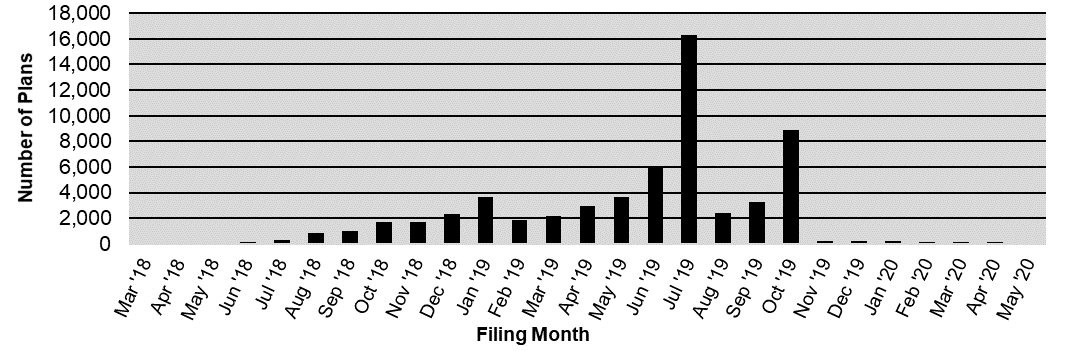
**APPENDIX A3: Form 5500 Filing Patterns and the COVID-19 Public Health Emergency**

Group health plans that are required to file the Form 5500 must file by the last day of the 7th calendar month after the end of the plan year.[[1]](#footnote-2) Plans may be granted an extension, but the due date may not be extended beyond a total of 9½ months past the end of the plan year.[[2]](#footnote-3) Most filing plans operate on a calendar year basis with plan ending date on December 31, which leads to the majority of filings occurring between June and October of the following year. The figures below illustrate this pattern for 2018.

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Table 1. Proportion of Plan Filings by Plan Year Ending Date,**  ***Data from the 2018 Group Health Plans Research File*** | | | | | | | | | | | | |
| **Plan Year End** | **Jan ‘18** | **Feb ‘18** | **Mar ‘18** | **Apr ‘18** | **May ‘18** | **Jun ‘18** | **Jul ‘18** | **Aug ‘18** | **Sep ‘18** | **Oct ‘18** | **Nov ‘18** | **Dec ‘18** |
| **Percent of Group Health Plans** | 1.6% | 2.3% | 3.5% | 5.0% | 4.0% | 6.5% | 2.5% | 2.8% | 3.7% | 2.2% | 2.6% | 63.4% |

**Figure 1. Number of Plans by Filing Month,**

***Data from the 2018 Group Health Plans Research File***



|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table 2. Actual vs. Expected Cumulate Filings Received with Plan Year End in 2019, by Month** | | | | |
| **Cumulative Filings Received** | **Actual** | **Expected**  **(3-year Average)** | **Difference** | **% Diff.** |
| *Feb ‘19* | *1* | *1* | *−* | *−* |
| *Mar ‘19* | *5* | *5* | *−* | *−* |
| ***…*** | ***…*** | ***…*** | ***…*** | ***…*** |
| *Jan ‘20* | *14,823* | *14,823* | *−* | *−* |
| *Feb ‘20* | *16,775* | *16,775* | *−* | *−* |
| Mar ‘20 | 20,168 | 19,291 | 877 | 4.5% |
| Apr ‘20 | 23,174 | 22,392 | 782 | 3.5% |
| May ‘20 | 26,450 | 26,221 | 229 | 0.9% |
| Jun ‘20 | 32,718 | 32,472 | 246 | 0.8% |
| Jul ‘20 | 49,108 | 48,457 | 651 | 1.3% |
| Aug ‘20 | 51,462 | 51,212 | 250 | 0.5% |
| Sep ‘20 | 54,906 | 54,774 | 132 | 0.2% |
| Oct ‘20 | 64,346 | 64,355 | -9 | 0.0% |
| Nov ‘20 | 64,655 | 64,577 | 78 | 0.1% |
| Dec ’20 | 64,899 | 64,778 | 121 | 0.2% |
| Jan ‘21 | 65,058 | 65,015 | 43 | 0.1% |
| Feb ‘21 | 65,240 | 65,210 | 30 | 0.0% |
| Mar ‘21 | 65,425 | 65,396 | 29 | 0.0% |
| Apr ‘21 | 65,563 | 65,563 | 0 | 0.0% |
| May ‘21 | 65,798 | 65,734 | 64 | 0.0% |

As a result of the COVID-19 public health emergency (PHE), the IRS and DOL offered a relief package that postponed filing deadlines for plans with due dates between April 1, 2020 and July 14, 2020 to a new due date of July 15, 2020.[[3]](#footnote-4) In order to address concerns that the PHE could result in filing delays that potentially could impact the statistics presented in this report, EBSA compared actual filing counts with historical filing patterns from prior years. Findings from this analysis indicated some minor filing delays—particularly during the period in which some plans were granted filing relief—but did not suggest that these delays had a material impact on the statistics presented in this report.

# Analysis of Actual vs. Expected Filing Patterns

EBSA used raw Form 5500 data to calculate “development factors”—the percent growth rate in the cumulative filings received by month—for each of the Group Health Plans Research Files (“Research Files”) dating back to 2010. The development factors were averaged over several years, then used to estimate an expected filing pattern for group health plans filing the Form 5500. EBSA also tracked filings received with plan years ending in 2019 through February 2020—the month before the PHE was declared—then applied the average development factors to approximate the expected number of filings that would be received by month in the absence of the PHE. This expected filing pattern was then compared with the actual filing pattern for plans included in the 2019 Research File.

Table 2 shows the comparison of actual data from the 2019 Research File to the average expected filing pattern based on data from the previous three Research Files (2016-2018).[[4]](#footnote-5) The rate of filing was higher than expected in March 2020, then dipped between April and June as some plans received filing relief, before rebounding slightly at the end of the relief period in July. As in prior years, the majority of filings were received between July and October, with the rate of filing dropping considerably thereafter. While some minor filing delays appear to have occurred at the onset of the PHE, this analysis suggests that the cumulative number of filings included in the 2019 Research File is not significantly different from what would be expected in a typical year. Ultimately, EBSA did not find evidence that the PHE caused major filing delays that materially impacted the statistics presented in this report.

1. *Instructions for the Form 5500*, U.S. Department of Labor (2019), <https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/2019-instructions.pdf>. [↑](#footnote-ref-2)
2. *Id.* [↑](#footnote-ref-3)
3. See Treasury Regulations under Internal Revenue Code § 7508A and Section 8 of Rev. Proc. 2018-58, 2018-50 I.R.B. 990 and “IRS Notice 2020-23 “Update to Notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019” at <https://www.irs.gov/pub/irs-drop/n-20-23.pdf>. [↑](#footnote-ref-4)
4. EBSA also compared against 5-year (2014-2018) and 9-year (2010-2018) average expected filing patterns, and the results were similar. [↑](#footnote-ref-5)