

DOL Extends Relief for Victims of Hurricane Maria and October California Wildfires

DOL will not pursue ERISA violations against plans that are complying with IRS relief in connection with hardship withdrawals and loans of Hurricane Maria and October 2017 California wildfire victims. Additionally, DOL extended certain ERISA deadlines for plan sponsors, participants, and beneficiaries affected by Hurricane Maria – in some circumstances on a mandatory basis.

Background

In mid-September 2017, Hurricane Maria devastated the U.S. Virgin Islands and Puerto Rico. Beginning on October 8, 2017, wildfires destroyed large swaths of property in California. In Announcement 2017-15, IRS allowed retirement plan sponsors to temporarily relax standards for processing hardship withdrawals and loans for participants who lived or worked in counties affected by these disasters. See our [November 15, 2017 For Your Information](#).

DOL Announces Relief

On the heels of the IRS guidance, DOL generally [extended the same relief](#) to victims of Hurricane Maria and the California wildfires that was provided in guidance directed to Hurricanes Harvey and Irma victims. (See our [September 19, 2017](#) and [September 6, 2017 For Your Information](#) publications). Specifically, as explained in its new release, DOL affirmed it would not pursue ERISA violations solely because a plan administrator follows IRS Announcement 2017-15 in processing payments. This relief applies to transactions involving loan and distribution verification procedures. In addition, for plan administrators affected by Hurricane Maria, the DOL relaxes enforcement of timing requirements for participant contribution and loan repayment deposits and for blackout notices.

Mandated Deadline Extensions for Hurricane Maria Victims

DOL also [extended](#) certain ERISA deadlines in connection with Hurricane Maria. Specifically, employers and plans must disregard the time period between September 17, 2017 and March 16, 2018



(for affected employers, participants, beneficiaries, qualified beneficiaries, and claimants in Puerto Rico) and September 16, 2017 through March 15, 2018 (for affected employers, participants, beneficiaries, qualified beneficiaries, and claimants in the U.S. Virgin Islands), in calculating the deadlines for:

- Special enrollment requests
- COBRA elections and premium payments
- Notification of a qualifying event or determination of disability
- Filing a benefit claim, appeal, request for external review, or information to perfect an external review

In contrast with guidance for previous disasters that instructed plan fiduciaries to make reasonable accommodations to prevent the loss of benefits, this guidance for Hurricane Maria victims mandates extra time for these actions.

Comment: This relief does not apply to the December California wildfires, although similar future guidance seems likely.

Since the mandatory relief provided in this guidance is retroactive to mid-September, plan sponsors should review their past administration for affected individuals to determine if any adjustments are necessary.

In Closing

Now that DOL has weighed in, this is probably the full extent of the type of assistance that will be available to plan sponsors, participants, and beneficiaries affected by Hurricane Maria and the October 2017 California wildfires, though DOL's guidance did note that the agencies will continue to monitor the effects of Hurricane Maria and provide additional relief as warranted.

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