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Employee Benefits and Human Resources Law

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COVID-19 Relief for Plans and Employees

On April 28, 2020, the Employee Benefits Security Administration (“EBSA”) of the U.S. Department of Labor (“DOL”) and the Internal Revenue Service (“IRS”) (collectively “the Agencies”) issued a joint notice announcing extensions for certain deadlines applicable to group health plans during the COVID-19 pandemic (“Joint Notice”).

Importantly the Joint Notice provides group health plan participants a time extension to make special enrollment changes, elect COBRA, and pay COBRA premiums.

The Joint Notice from the Agencies provides extensions to comply with certain deadlines affecting COBRA continuation coverage, special enrollment periods, claims for benefits, appeals of denied claims, and external review of claims required by group health plans subject to ERISA and the Internal Revenue Code.

Group health plans must disregard the period from March 1, 2020, until sixty (60) days after the announced end of the COVID-19 National Emergency (or other notice issued by the Agencies), with respect to certain deadlines applicable for participants. This period is referred to as the “Outbreak Period.”

Specifically, the guidance provides relief to plan participants, beneficiaries, qualified beneficiaries, or claimants during the Outbreak Period, in determining the following periods and dates, including:

- The 30-day period (or 60-day period, if applicable) to request HIPAA special enrollment;
- The 30 or 60-day deadline for employers or individuals to notify the plan of a qualifying event;



- The 60-day deadline for individuals to notify the plan of a determination of disability;
- The 14-day deadline for plan administrators to furnish COBRA election notices;
- The 60-day deadline for participants to elect COBRA;
- The 45-day deadline in which to make a first premium payment, and 30-day deadline for subsequent premium payments;
- The date within which individuals may file a benefit claim under a plan's claims procedure;
- The date within which claimants may file an appeal of an adverse benefit determination under a plan's claims procedure;
- The date within which claimants may file a request for an external review after receipt of an adverse benefit determination or final internal adverse benefit determination; and
- The date within which a claimant may file information to perfect a request for external review.

Neither the DOL nor the IRS has advised that participants must be notified in their COBRA election notices regarding these extended time periods. Nevertheless, it would seem prudent that any COBRA election forms should be modified to describe this extended election and payment periods (and the consequences of utilizing those extended periods). Presumably, COBRA service providers will include some form of supplementary notice.

Conclusion

The guiding principle for plans must be to act reasonably, prudently, and in the interest of the covered workers and their families who rely on their health, retirement, and other employee benefit plans.

Employers and plan administrators need to be sure every staff member who might be contacted by a participant about benefits is aware of these new rules and need to take the necessary steps to implement the rules, including working with any plan service providers to ensure compliance.

The content herein is provided for educational and informational purposes only and does not contain legal advice. Please contact our office if you have any questions about compliance requirements applicable to your employee benefit plans or other HR compliance matters.

Dated: June 10, 2020