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The Long-Awaited End of the Tolling of Plan Deadlines Due to COVID-19

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The Biden Administration recently announced that the COVID-19 National Emergency will end on May 11, 2023. This means that the requirement to extend various benefit plan deadlines due to the COVID-19 pandemic will end as well.

By way of brief background, early during the pandemic, the U.S. Departments of Labor and Treasury adopted relief pursuant to which benefit plans were required to toll plan deadlines during the period from March 1, 2020 until 60 days after the end of the COVID-19 National Emergency (the "Outbreak Period"). As a result, plan participants and beneficiaries have had additional time to: (i) file benefit claims and appeals, (ii) elect and pay for COBRA coverage, and comply with COBRA notice obligations, and (iii) request special enrollment in a health plan. As the pandemic continued longer than most initially expected, subsequent guidance clarified that the maximum tolling period for any individual would be one year.

With the announcement of the end of the National Emergency, tolling will finally end on July 10, 2023 (60 days after the end of the National Emergency), which means that it is time for the clock to start ticking again on the applicable plan deadlines. As an example, if an employee's 60-day COBRA election period began on August 1, 2022, the election period will no longer be tolled as of July 10, 2023, and COBRA coverage must be elected within 60 days of July 10th. However, if an employee's COBRA election period began one month earlier on July 1 2022, tolling will end on July 1, 2023 due to the maximum one-year tolling period, and the 60-day election period will begin on that date.

The Administration also announced the end of the COVID-19 *Public Health Emergency* on May 11, 2023, which impacts certain health benefit requirements that have been in place during the emergency period, such as coverage for COVID-19 testing and preventive services. Stay tuned for our blog post discussing these issues.

Next Steps

Plan sponsors and administrators should review their prior communications with participants and beneficiaries regarding the tolling of the various plan deadlines, including claim denial letters and COBRA election packages, and provide updated communications to the extent necessary, so that individuals are not taken by surprise when their deadline expires. Administrative processes also should be reviewed and adjusted to account for the end of the tolling requirement.

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