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Big Headline, Small Impact: Legislation Ends COVID-19 National Emergency

Employee Benefits & Executive Compensation on **April 11, 2023**

On Monday, April 10, 2023, President Biden signed legislation passed by Congress ending the COVID-19 National Emergency. Since this legislation appears to have an immediate effect, the National Emergency will end one full month prior to the May 11, 2023, date on which the Biden Administration and the Department of Health and Human Services had previously announced that they intended to jointly end the COVID-19 National Emergency and the Public Health Emergency.

What does this mean for employee benefit plans?

Not a whole lot. As we noted in our prior blog on the end of the emergency periods (found here), there are a number of benefit coverage mandates that were adopted in response to the COVID-19 pandemic. These mandates include, for example, in-network and out-of-network coverage of COVID-19 testing and vaccinations without cost sharing, as well as coverage of over-the-counter tests. However, these coverage mandates are tied to the existence of the Public Health Emergency, not the National Emergency. The legislation signed yesterday by President Biden changed only the expiration date of the National Emergency – it did not change the scheduled May 11, 2023, end date of the Public Health Emergency. Therefore, those mandates will end on May 11, 2023, as previously scheduled, unless the Administration announces another change.

Then what does change?

The only benefit plan mandate tied to the COVID-19 National Emergency is the requirement to toll participant deadlines for making COBRA and special enrollment elections, filing claims and appeals, and making COBRA premium payments until sixty days after the end of the COVID-19 National Emergency (referred to as the “Outbreak Period”).

Had the COVID-19 National Emergency ended on May 11, 2023, as previously scheduled, the Outbreak Period would have ended on July 10, 2023. Since this emergency ended on April 10, 2023, the Outbreak Period will instead end on Friday, June 9, 2023.

This change means that plan administrators will not be required to toll benefit plan deadlines after June 9, 2023. So, the benefit plan deadlines previously tolled during the COVID-19 National Emergency will start to run after that date.

Takeaway for plan sponsors

As noted in our prior blog, plan sponsors and administrators should consider whether and how to communicate with participants about the end of the tolling period. Any election forms or other communications referencing the tolling period should also be updated to reflect its expiration.

View original.

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