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COVID-19-Related Extension of Certain Time Frames for Employee Benefit Plans

Background

The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) and the IRS have issued a joint rule, formal notice, and FAQs, providing relief from certain established deadlines for group health plans in light of the difficulties certain plan sponsors, administrators, and participants during the COVID-19 crisis.

Summary

The extension of the various deadlines, the rule gives several examples, specifically, the "outbreak period" beginning March 1, 2020, and ending 60 days after the announced end of the COVID-19 emergency is to be disregarded for the following reasons:

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COBRA

A significant amount of COBRA deadlines have been extended until after the outbreak period ends, including:

- The 30 or 60-day deadlines 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; and
- The 45-day deadline in which to make a first premium payment and 30-day deadline for subsequent premium payments.
 - Example: An employee's hours are reduced, causing the employee to lose active coverage under the health plan, which is a COBRA qualifying event. The employee receives the COBRA election notice on April 1, 2020.
 - Result: The standard 60-day COBRA election period is extended by disregarding the outbreak period. If the national emergency were to end on April 30, 2020, this would cause the outbreak period to end on June 29, 2020. The employee would then have 60 days after the end of the outbreak period (until August 28, 2020) to elect COBRA.
 - Example: A former employee was receiving ongoing COBRA coverage under a group health plan which typically requires monthly premium payments be paid by the first of the month. The plan allows a 30-day grace period for making premium payments. The individual made their timely February payment, but did not make their March payment or any other payments during the outbreak.
 - Result: The outbreak period is disregarded for sole purposes of determining whether monthly COBRA premium installment payments are timely. If the national emergency were to end on April 30, 2020, premium payment made within the 30 days after June 29, 2020 (which means by July 29, 2020) for March, April, May and June 2020 are made on time, the individual is entitled to COBRA coverage for those months. Payments made for March, April, May and June are all qualified to be "timely" if they are made within 30 days after the end of the outbreak period.

HIPAA Special Enrollment

The 30-day and 60-day HIPAA special enrollment periods have been extended. Thirty-day special enrollment periods may be triggered when eligible employees or dependents lose their eligibility for other health plan coverage in which they were previously enrolled. This also applies to when the eligible employee acquires a dependent through birth, marriage, adoption, or placement for adoption. Sixty-day enrollment periods may be triggered by changes in eligibility for state premium assistance under the Children's Health Insurance Program.

- Example: An employee who had previously waived coverage under than plan gives birth on March 31, 2020 and would like to enroll herself as well as her newborn.
- Result: The standard 30-day special enrollment period is extended by disregarding the outbreak period. If the national emergency were to end on April 30, 2020, the outbreak would end on June 29, 2020. The employee would have until 30 days after the end of the outbreak period, which is until July 29, 2020 to enroll herself as well as her child in the plan.

Claims Procedure

These deadlines are for those who need to file claims for benefits, initial disposition of claims, and for providing claimants a reasonable opportunity to appeal the outcome of benefits under ERISA plans and non-grandfathered group health plans. (Group health plans and disability plans generally must allow at least 180 days to appeal if needed; other welfare benefit plans must allow 60 days.)

Furnishing Notices

Plans will not be treated as having violated ERISA if they act in good faith and provide any notices, disclosures, or documents that would have to also be provided during the outbreak period (including those requested in writing by a participant or beneficiary) “as soon as they are practiced under the circumstances”

Form 5500

The Form 5500 filing relief if provided in accordance with the IRS guidance, which provides that filings otherwise due on or after April 1 and before July 15, 2020, are now due July 15, 2020.

Due to the disruption of businesses and plan administration from COVID-19, plan administrators and participants alike will welcome this relief. This guidance acknowledges the uncertain duration of the pandemic and notes that additional guidance will be provided for specific parts of the country if it is necessary.

HR Knowledge will continue to provide updates as further information develops.

Employer Next Steps

- If you have any questions or concerns please contact us at benefitsupport@hrknowledge.com.

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