

EMPLOYEE BENEFITS LAW

INFORMATION MEMO

FEBRUARY 23, 2023

How the Anticipated End of the COVID-19 National Emergency Impacts Employer-Sponsored Health Plan Deadlines

Several deadlines related to employer-sponsored health plans were extended during the COVID-19 outbreak.

The outbreak began on March 1, 2020, when former President Trump declared a national emergency due to the COVID-19 pandemic (National Emergency). As discussed in our [prior client alert](#), the Department of Labor, along with the Department of Health and Human Services, and the Department of the Treasury (collectively, the Agencies), established an “Outbreak Period” based on the National Emergency during which many health plan deadlines were extended.¹ The Agencies stated the Outbreak Period would end 60 days after the end of the National Emergency.

On Jan. 30, 2023, President Biden announced his intent to end the National Emergency on **May 11, 2023**. Under the Agencies’ timeline, the Outbreak Period will end on **July 10, 2023**.

Health plan deadlines extended during the Outbreak Period include:

- **HIPAA Special Enrollment:** The 30-day deadline (or 60-day deadline, if applicable) to request special enrollment in a group health plan following: (1) the birth, adoption or placement for adoption of a dependent; (2) marriage; (3) loss of other health coverage; or (4) changes in eligibility for a state premium assistance subsidy (such as Medicaid or a state Children’s Health Insurance Program (CHIP)).
- **COBRA Notice and Premium Payment Deadlines:** Including (1) the deadline to provide individuals with notice of their COBRA continuation rights; (2) the 60-day deadline to elect COBRA coverage; (3) the date by which COBRA premium payments are due; and (4) the date for individuals to notify the plan of a qualifying event or disability determination (often 60 days from the date of the event, loss of coverage, or disability determination).
- **Claims and Appeals Deadlines:** The time period to (1) file a benefit claim; (2) appeal an adverse benefit determination; or (3) request an external review of a claim pursuant to a health plan’s claims procedures.

In 2021, the Agencies provided guidance that these benefit plan deadlines were extended until the earlier of 60 days after the announced end of the National Emergency (which is July 10, 2023) or one year from the deadline that would have applied if not for the National Emergency.

As a result of the end of the National Emergency, the tolling of health plan deadlines based on the Outbreak Period extension will end on July 10, 2023. For example, if an employee’s 60-day COBRA

¹ The proposed end of the National Emergency also impacts claims and appeals deadlines for retirement plans. This alert addresses health and welfare plan deadlines.

election period began on Sept. 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 10. However, if an employee's COBRA election period began on July 5, 2022, tolling will end on July 5, 2023 due to the maximum one-year tolling period, and the 60-day election period will begin on that date.

Prior to July 10, 2023, plan sponsors should begin to review and revise their health plan design and related documents with their plan administrators and legal counsel. To the extent that plan documents and participant communications were modified to reflect the temporary National Emergency deadlines, plan sponsors should revise such documents to ensure compliance with the end of the National Emergency.

If you have any questions related to the end of the National Emergency, plan design options, or the information presented in this memo, please contact [Maureen H. Milmoë](#), any attorney in our [employee benefits and executive compensation](#) practice or the attorney at the firm with whom you are regularly in contact.

