

# EMPLOYEE BENEFITS LAW INFORMATION MEMO

APRIL 13, 2022

## Recent Extension of the National Emergency Period Impacts Employee Benefit Plan Administration

President Biden once again continued the National Emergency Concerning the COVID-19 Pandemic (National Emergency) on February 18. The National Emergency had been set to expire on March 1. Pursuant to the notice issued by President Biden, the National Emergency that was initially declared on March 13, 2020 (beginning March 1, 2020), must continue in effect beyond March 1, 2022.

The continuation of the National Emergency impacts certain employee benefit plan deadlines. As described in our [previous client alert](#), a final rule issued jointly by the U.S. Department of Labor and U.S. Department of Treasury requires that the period from March 1, 2020, until 60 days after the announced end of the National Emergency (Outbreak Period) be disregarded for purposes of certain employee benefit plan deadlines. Such deadlines include, for example, the 60-day election period for COBRA continuation coverage, and the due date for making COBRA premium payments. The U.S. Department of Health and Human Services has similarly advised that it will exercise enforcement discretion to adopt a temporary policy of measured enforcement to extend similar timeframes otherwise applicable to non-federal governmental group health plans and insurance issuers offering coverage under the Public Health Services Act.

As the National Emergency is still ongoing, the Outbreak Period will continue to be disregarded with respect to such employee benefit plan deadlines.

However, as also discussed in our [previous client alert](#), subsequent guidance clarified that the disregarded period for the certain employee benefit plan deadlines applies on an individual basis. This subsequent guidance stated that the disregarded period will end on the earlier of (a) one year from the date the affected individual was first eligible for relief from meeting an applicable deadline, or (b) 60 days after the announced end of the National Emergency.

The continuation of the National Emergency and the associated continuation of the disregarded period for the certain employee benefit plan deadlines will remain a challenge for plan sponsors to ensure affected participants and beneficiaries are afforded the benefit of the extended deadlines. For example, plan sponsors must continue to address any administrative challenges associated with the disregarded period with respect to the deadlines for participants to request special enrollment under a group health plan, make the election for COBRA continuation coverage and/or make required COBRA premium payments. Plan sponsors should coordinate with their insurers and third-party administrators to ensure that their plans are being administered consistent with these extended deadlines.

If you have any questions, please contact [Daniel Nugent](#), any attorney in our [Employee Benefits and Executive Compensation practice](#) or the attorney at the firm with whom you are regularly in contact.

