

# CLIENT | ALERT



Client Alert Applies To: Self Funded, Fully Funded, Small Group, & Large Group

May 6<sup>th</sup>, 2020

## Certain Benefit Plan Deadlines Extended Due to COVID-19

Last week, federal agencies issued a joint rule that extends some existing employee benefit plan deadlines applicable to both plan participants and plan administrators (i.e., employers). The extension period is based on what the rule defines as the "Outbreak Period." The Outbreak Period is the period beginning on March 1, 2020 and ending 60 days after the announced end of the COVID-19 federally declared emergency. The rule provides that the Outbreak period should be disregarded for purposes of many employee benefit deadlines, including HIPAA special enrollment periods, COBRA notice deadlines applicable to administrators and COBRA election deadlines applicable to former employees and others. Of most importance to employers, the following deadlines benefit from this extension:

- **COBRA:** Multiple COBRA deadlines have been extended until after the Outbreak Period ends, including (1) the 30- or 60-day deadline for employers or individuals to notify the plan of a qualifying event; (2) the 60-day deadline for individuals to notify the plan of a determination of disability; (3) the 14-day deadline for plan administrators to furnish COBRA election notices; (4) the 60-day deadline for participants to elect COBRA; and (5) the 45-day deadline in which to make a first premium payment and 30-day deadline for subsequent premium payments. As an example, assuming the current federal emergency does not end until May 15, 2020, an employee who was terminated in March and received a COBRA election notice on April 10<sup>th</sup> would have until September 15, 2020 (60 days after July 15, 2020, the end of the Outbreak Period) to elect COBRA coverage.

- **HIPAA Special Enrollment:** HIPAA provides for 30- and 60-day special enrollment periods following certain events. The 30-day special enrollment period is triggered when an eligible employee or dependent loses eligibility for other health plan coverage in which they were enrolled or where an employee acquires a dependent through birth, marriage, adoption or placement for adoption. 60-day special enrollment periods are triggered by changes in eligibility for CHIP premium assistance. Again, assuming the Outbreak Period ends on July 15, 2020 (federal emergency ends on May 15, 2020), an employee who experienced a special enrollment event during the federal emergency would have 30 or 60 days respectively after July 15, 2020 to elect coverage
- **Claims Procedures:** The Outbreak Period must similarly be disregarded for purposes of the plan deadlines by which individuals must file claims or appeal an adverse benefit determination. For example, again assuming the federal emergency period ends on May 15, 2020, if a participant's deadline for filing a claim ran on April 1, 2020, the participant would have until July 15, 2020 to file the claim.
- **Form 5500:** The rule confirms that any Form 5500s due on or after April 1, 2020 and before July 15, 2020, are now due July 15, 2020.

While some of this relief is welcome, the relief provided by the rule creates administrative challenges given that participants will have much longer periods in which to exercise COBRA or special enrollment rights.

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