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Update on ERISA Deadlines and Extension of Time due to COVID-19

Please read this notice carefully as it may impact your rights to benefits and coverage.

The Trust previously updated you on the end of the “Outbreak Period” affecting ERISA deadlines that were suspended by the IRS and DOL for the period beginning March 1, 2020 until 60 days after the end of the national COVID emergency. The national COVID emergency declared by Presidential proclamation has not ended, but because the agencies lacked the statutory authority to extend deadlines for longer than one year, it appeared that the extensions would terminate February 28, 2021 absent further action by the federal government.

On February 26th, DOL responded by providing guidance in the form of EBSA Disaster Relief Notice 2021-01 (the “Notice”). The Notice acknowledges that the agencies lack authority to extend ERISA deadlines for longer than one year, but it dictates that the one-year extension applies separately to each extended deadline. When a member experiences an event triggering one of the affected deadlines, such as a COBRA qualifying event, receipt of a COBRA election notice, a special enrollment event, or receiving medical services or an adverse benefit determination, the applicable deadline is extended until the earlier of one year from that date or 60 days after the emergency ends. The extension applies so long as the Outbreak Period continues, meaning that it affects even deadlines that begin *after* February 28, 2021. In no event would any deadline extension exceed one year. The following examples will illustrate this.

COBRA Continuation Coverage

This temporary extension of time affects the following time limits related to COBRA continuation coverage:

- Your 60-day period to elect COBRA continuation coverage after you experience a qualifying event.
- The 45-day period after you elect COBRA before your first payment is due.
- The 30-day grace period for making each monthly COBRA premium payment.

Please note that COBRA coverage is continuous from the date you would have otherwise lost coverage and COBRA coverage will not be provided in a particular month until you have paid the premium for that month.

Example 1 – COBRA Election Qualifying event before Outbreak Period: Member experienced a COBRA qualifying event when his hours were reduced below the hours necessary for eligibility. The plan sent him a COBRA election notice on February 1, 2020. Normally, he would have 60 days to elect COBRA continuation coverage. However, due to the extension of time, the 60-day period stopped on March 1, 2020 at 29 days. The 60-day limit then resumes on March 1, 2021, one year from the date the 60-day period stopped. Member has 31 days to elect COBRA coverage, until March 31, 2021.

Example 2 - COBRA Election: Member A experienced a COBRA qualifying event in April 2020 and received a COBRA election notice on May 1, 2020. The deadline to elect COBRA is 60 days. Under the Notice, the deadline to elect COBRA is suspended until the earlier of May 1, 2021, or 60 days after the declared emergency ends. If the emergency continues, Member A will have until June 29, 2021 to elect COBRA coverage. If the emergency period were to be declared over on March 31, 2021, then Member A would have until May 30, 2021 to elect COBRA.

Example 3 - COBRA Election. Member B experienced a COBRA qualifying event in February 2021 and received a COBRA election notice on March 1, 2021. The Notice delays the beginning of Member B's 60-day deadline to elect COBRA until the earlier of one year from that date (March 1, 2022) or the end of the Outbreak Period.

Example 4 – COBRA Premium Payments. Member C is receiving COBRA coverage effective March 1, 2020. During the Outbreak Period, the 30-day grace period to make premium payments has been extended. Under the Notice, the 30-day grace period for each monthly payment is extended by one year. For example, the April 2020 COBRA premium payment is normally due on the first of the month and payable within a 30-day grace period, and so will be due by April 30, 2021, after the grace period begins on April 1, 2021. The May 2020 premium payment similarly will be due by May 30, 2021, and so on.

Claims and Appeals

The Plan limits the time in which you can submit a claim for benefits after receiving services. Generally, you must submit a claim within one year after the date services are provided. If your claim for benefits is denied, you generally have 180 days to request the Plan's review of that denial. You may also have a right to request external review of an appeal decision within the following four months.

These claim and appeal timelines are temporarily extended for the period described above, meaning that you may have additional time to submit claims and request review.

Special Enrollment

Participants and dependents generally have 30 (sometimes 60) days to enroll in the Plan after losing other coverage or after certain life events such as marriage, birth, or adoption. This 30- or 60-day time limit is temporarily extended.

Example 5 – Special Enrollment. Member D acquires a new dependent by birth on June 1, 2021. The declared emergency has not ended. The 30-day deadline for Member D to request special enrollment of the new dependent does not begin until June 1, 2022, so long as the emergency continues.

More Information

For more information or if you have specific questions regarding your benefits, please contact the Trust's Administrative Office.