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MLMIC Cash Consideration and ADR Process

Norris McLaughlin Health Care Alert
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As many of you are aware, the New York State Department of Financial Services ("DFS") approved the conversion, demutualization, and sale of MLMIC to National Indemnity Company, a member of the Berkshire Hathaway Group. The Cash Consideration of the transaction is \$2,502,000,000 which is to be distributed to certain MLMIC policyholders or their designees. The amount of the cash distribution to each policyholder is calculated at 1.9 times the amount paid in premiums during the period of July 15, 2013, through July 14, 2016. Accordingly, the cash distributions are significant.

MLMIC has acknowledged that numerous disputes have arisen between policyholders and other parties (most often current/former employers, medical groups, or hospitals) regarding the distribution of the Cash Consideration. As required by the DFS decision to approve the sale, MLMIC is providing an "alternative dispute resolution process" whereby policyholders and/or objectors can attempt to resolve disputes regarding the cash distribution. Most importantly, there are time constraints that all affected parties need to be aware of.

According to MLMIC, "...as soon as possible, but within 30 days of [October 1, 2018], the policyholder and the objector shall notify MLMIC of their intention to participate" in the process by executing and submitting a special Opt-In Notice. Any policyholder or entity disputing a cash distribution is urged to seek legal counsel regarding both the MLMIC resolution process and litigation options. Although there are many factors to be considered, most disputes have arisen over whether payments of premiums by an employer for a policy covering an employee constitute actual compensation. Therefore, it is essential to properly analyze the applicable language of the subject employment agreement.

If you have questions or would like to discuss any medical-legal issue, please contact David N. Vozza, Esq., at 917.369.8867 (office direct) or 631.935.5853 (cell). You can also send an email to dnvozza@norris-law.com.

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