

EMPLOYEE BENEFIT PLANS FACE ADMINISTRATIVE TRANSITION AT THE END OF THE COVID-19 NATIONAL/PUBLIC HEALTH EMERGENCIES

Hodgson Russ Employee Benefits Alert
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With President Biden’s announcement that the COVID-19 National Emergency and the Public Health Emergency periods will expire on May 11, 2023, comes a period of transition to “normal” for benefit plan administrative deadlines and an end to some pandemic-related public health benefits. These emergency declarations have been in place for three years and, although placing some requirements on plan sponsors, they have also provided flexibility with regard to certain administrative functions. The expiration of these emergency periods will affect benefit plans in the following ways:

COVID-19 National Emergency – On March 1, 2020, the IRS and DOL began providing plans and individuals relief by tolling certain deadlines during the “outbreak period.” Specifically, the deadlines are tolled on a person-by-person basis until the earlier of 12 months from the original deadline, or the date that is 60 days after the announced end of the COVID-19 national emergency. Deadline extension relief for the following events must continue to be tracked on a person-by-person basis until July 10, 2023:

HIPAA Special Enrollment. The 30-day period (or 60-day period applicable to CHIP special enrollments) to provide notice of a special enrollment event.

COBRA Election, Payment and Notices.

The 60-day period for electing COBRA continuation coverage;

The date for making COBRA premium payments (45 days for initial premiums and 30 days for subsequent premiums), with the tolling period for electing COBRA coverage and making initial and ongoing premium payments running concurrently;

The date for individuals to notify the plan of a qualifying event or determination of disability; and

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The deadline for employers to provide COBRA election notices.

Claims Procedures. The date within which individuals may file initial benefit claims and internal or external appeals under an ERISA-covered retirement or welfare plan's claims procedures.

Public Health Emergency

Covered COVID-19 Vaccines – During the Public Health Emergency period, group health plans are required to provide first dollar coverage for COVID-19 vaccines. After May 11, 2023, although in-network COVID-19 vaccines will still be free to participants (considered preventative care), plans may exclude from coverage or impose cost sharing on out-of-network vaccinations.

Free COVID-19 Testing – Similarly, group health plans are required to cover COVID-19 tests without imposing any cost-sharing requirements, prior authorization, or other medical management requirements. After May 11, 2023, these prohibitions will end and group health plans may begin imposing medical management and cost-sharing requirements for COVID testing.

Standalone Telehealth/EAP – In an effort to reach more employees during the pandemic, federal agencies relaxed compliance requirements under ERISA, HIPAA, and the MHPAEA for certain standalone telehealth and employee assistance programs. With the end of the Public Health Emergency, these standalone plans will once again be subject to the regular enforcement standard.

With the end of these emergency periods, plan administrators should review their administrative procedures and event-related notices, and, where necessary, coordinate with service providers to ensure that plan operations return to pre-pandemic form. Please contact a member of the [Employee Benefits Practice](#) if you have questions or concerns regarding your benefit plan's post-pandemic administrative compliance.

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