

# COMPLIANCE ALERT

## President Announces End of COVID-19 National and Public Health Emergency Periods

February 9, 2023

### Action Required:

- Review/update affected plans and policies to prepare for the end of emergency periods on May 11, 2023.
- Review deadlines that will resume at pre-pandemic rates effective July 11, 2023.

On January 30, 2023, the Biden Administration announced its plan to extend the COVID-19 national emergency and public health emergency (PHE) declarations to May 11, 2023, and then end both emergencies on that date.

Opposing Congressional efforts to end these emergency periods sooner, the administration stated that an abrupt end to the emergency declarations would create “wide-ranging chaos and uncertainty throughout the health care system” for states, healthcare providers, and individuals. The May 11 end date to the emergency periods would align with previous commitments to provide at least 60 days’ notice prior to termination of the PHE.

### What Outbreak Period Rules Will Change?

The Outbreak Period extension applies to benefit claim deadlines for participants and beneficiaries, as well as deadlines for COBRA elections and premium payments, HIPAA special enrollments, and various ERISA disclosures. The end of the national emergency will trigger the 60-day countdown to the end of the Outbreak Period, at which time the deadline pauses will end.

### What Should Employers and Plan Sponsors Do Next?

Employers and plan sponsors should begin working with their trusted plan advisors to review affected plans and policies to prepare for the end of both declared emergency periods.

Specifically, they should review the plan coverage requirements that will be impacted by the end of the PHE and the changes to the plan deadlines impacted by the end of the national emergency.

Additionally, affected plan documents and policies should be reviewed, and if necessary updated, to ensure that these temporary COVID-19 relief rules from these two emergency periods will no longer be applicable at the times that they are supposed to end and ensure that the generally applicable pre-pandemic plan deadlines and rules go back into effect. ■

### ↓ Full Explanation Follows ↓

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# President Announces End of COVID-19 National and Public Health Emergency Periods

On January 30, 2023, the Biden Administration [announced](#) (the “Announcement”) its plan to extend the COVID-19 national emergency and public health emergency (PHE) declarations to May 11, 2023, and then end both emergencies on that date.

Opposing Congressional efforts to end these emergency periods sooner, the administration stated that an abrupt end to the emergency declarations would create “wide-ranging chaos and uncertainty throughout the health care system” for states, healthcare providers, and individuals. The Announcement’s May 11 end date to the emergency periods would align with previous commitments to provide at least 60 days’ notice prior to termination of the PHE.

## How Does the Announcement Change the Law?

As background, the COVID-19 pandemic prompted Congress and the federal agencies to issue temporary relief rules affecting employee benefit plans—some apply during the PHE, while others apply during the “Outbreak Period” related to the national emergency period (discussed in more detail below).

For example, during the PHE, COVID relief legislation requires group health plans and insurers to cover COVID-19 diagnostic testing without cost-sharing, prior authorization, or other medical management requirements. Non-grandfathered plans must also cover COVID-19 vaccines without cost-sharing (a good summary of the impact on coverage requirements by KFF is available [here](#)).

Additionally, DOL and IRS guidance extended various plan-related deadlines (for no longer than one year) by disregarding or pausing (i.e., tolling) a time period referred to as the “Outbreak Period,” which will end 60 days after the end of the national emergency period (see our E-Alerts [here](#) and [here](#)).

## What Are the Specific Outbreak Period Rules That Will Change? What Are the Plan Deadlines and Other Rules Impacted by This Change?

The Outbreak Period extension applies to benefit claim deadlines for participants and beneficiaries, as well as deadlines for COBRA elections and premium payments, HIPAA special enrollments, and various ERISA disclosures. The end of the national emergency will trigger the 60-day countdown to the end of the Outbreak Period, at which time the deadline tolling period will end.

Once this Outbreak Period ends (i.e., on July 10, 2023), the following paused (or tolled) timeframes will begin to run again at pre-pandemic rates effective July 11, 2023:

- the 14-day deadline for plan administrators to provide COBRA election notices to qualified beneficiaries (the Outbreak Period relief guidance suspended the deadline for the plan administrator to provide the COBRA election notice to qualified beneficiaries);
- the 30-day (or 60-day in some cases) period to exercise HIPAA special enrollment rights in a group health plan following birth, adoption, or placement for adoption of a child; marriage, loss of other health coverage; or eligibility for a state premium assistance subsidy;
- the 60-day deadline by which a participant or qualified beneficiary must provide notice of divorce or legal separation, a dependent child that ceases to be an eligible dependent under the terms of the plan), or a Social Security disability determination used to extend COBRA coverage;
- the 60-day deadline in which to elect COBRA coverage;
- the date by which monthly COBRA premium payments are due; and
- the deadline under the plan by which participants may file a benefit claim (under the terms of the plan) and the deadlines for appealing an adverse benefit determination or requesting an external review, including for health flexible spending accounts (Health FSAs) and health reimbursement arrangements (HRAs).

It should be noted that these extensions do not apply to expense reimbursement requests under dependent care FSAs and health savings accounts (HSAs).

### What Should Employers and Plan Sponsors Do Next?

Employers and plan sponsors should begin the process now of working with their trusted plan advisors to review affected plans and policies to be prepared for the end of both declared emergency periods. Specifically, they should review the plan coverage requirements that will be impacted by the end of the PHE and the changes to the plan deadlines impacted by the end of the national emergency (described above).

Additionally, affected plan documents and policies should be reviewed, and if necessary updated, to ensure that these temporary COVID-19 relief rules from these two emergency periods will no longer be applicable at the times that they are supposed to end and ensure that the generally applicable pre-pandemic plan deadlines and rules go back into effect. ■

**If you have any additional questions,  
please call your Corporate Synergies  
Account Manager or 866.CSG.1719.**