

How the End of the COVID-19 Emergency Periods Will Impact Health Plans

The Biden Administration has [announced](#) its plan to end the COVID-19 public health emergency (PHE) and National Emergency (NE) on May 11, 2023. The COVID-19 Outbreak Period (OP) ends 60 days after the NE ends, so under this timeline, the OP will end on July 10, 2023. We are aware that there are key questions to be addressed in light of this latest decision. We have provided herein an overview of the items to be aware of when the emergencies end, including health plan coverage rules related to the COVID-19 pandemic. This is as follows:

Public Health Emergency (PHE)

- *COVID-19 Diagnostic Testing Without Cost Sharing* — During the PHE, health plans must cover COVID-19 tests and related services without imposing any cost sharing (such as deductibles, copayments, or coinsurance) or prior authorization or other medical management requirements, and on January 15, 2022, this coverage requirement extended to at-home COVID-19 diagnostic tests. Health plans will no longer be required to provide this first-dollar coverage when the PHE ends.
- *COVID-19 Vaccines* — Non-grandfathered group health plans must cover coronavirus preventive services, including recommended COVID-19 immunizations, without cost sharing requirements. During the PHE, covered services may be provided by in-network or out-of-network providers. Once the PHE ends, health plans must continue to cover recommended COVID-19 immunizations without cost sharing but can limit this coverage to in-network providers.
- *Standalone Telehealth Benefits* — For plan years beginning during the PHE, a large employer (more than 50 employees) may offer standalone telehealth benefits and other remote care services to individuals who are not eligible for coverage under any other group health plan offered by the employer without violating the Affordable Care Act's market reforms. These types of standalone arrangements will not be permitted after the PHE ends.
- *Pre-Deductible Telehealth Coverage Relief Not Linked to Emergencies* — The pre-deductible telehealth coverage relief is not linked to the PHE or OP. This relief allows high deductible health plans (HDHPs) compatible with health savings accounts (HSAs) to provide benefits for telehealth or other remote care services before plan deductibles are met without jeopardizing HSA eligibility. Note that since this relief is not linked to the PHE or OP, HDHPs may be designed to waive the deductible for any telehealth services for plan years beginning in 2023 and 2024 without causing participants to lose HSA eligibility.

National Emergency (NE)

- *Outbreak Period Deadline Extensions* — When the COVID-19 OP ends, health plans can go back to their nonextended deadlines for purposes of HIPAA special enrollment, COBRA, and claims and appeals procedures. The following deadline extensions end when the OP is over or, if earlier, after an individual has been eligible for a specific deadline extension for one year.
 - *Claims and Appeals Deadlines*—The deadlines to file a benefit claim, file an appeal of an adverse benefit determination or request an external review of a claim under the plan's claims and appeals procedures.
 - *COBRA Notice and Premium Payment Deadlines*—The 60-day period to elect COBRA; the date for making COBRA premium payments (generally at least 45 days after the day of the initial COBRA election, with a grace period of at least 30 days for subsequent premium payments); and the date for individuals to notify the plan of a qualifying event or disability determination (generally 60 days from the date of the event, loss of coverage or disability determination).
 - *Example 1: COBRA qualified beneficiary (QB) enrolls in COBRA and makes several payments but fails to make the COBRA payment for November 2022 coverage by the normal grace period of 11/30/22. The payment deadline is tolled as of 11/30/22. The one-year tolling period would end 11/30/23 (if the NE continued), and the payment deadline would be 11/30/23. But if the NE ends on 5/11/23, the OP will end on 7/10/23 and the 30-day payment period would start 7/10/23 and end 8/9/23.*

- Example 2: COBRA QB offered COBRA and election period started 11/1/22. The election deadline is tolled as of 11/1/22. The one-year tolling period would end 10/31/23 (if the NE continued), so the 60-day election period would start 11/1/23 and end 12/30/23. But if the NE ends on 5/11/23, the OP will end on 7/10/23 and the 60-day election period would start 7/10/23 and end 9/8/23.
- Example 3: COBRA QB offered COBRA and election period started 7/10/23. The election deadline is not tolled. The 60-day election period would start 7/10/23 and end 9/8/23.
- HIPAA Special Enrollment — The 30-day period (or 60-day period, if applicable) to request special enrollment. HIPAA special enrollment events are a subset of the Section 125 permitted election change events that provide special rights. A member qualifies for HIPAA special enrollment under a health plan for certain limited events like loss of eligibility for coverage and acquisition of a new spouse or dependent by marriage, birth, adoption, or placement for adoption.
 - Example 4: Employee has baby on 11/1/22. The election deadline is tolled as of 11/1/22. The normal 30-day timeline to notify the employer is by 12/1/22. The one-year tolling period would end 10/31/23 (if the NE continued), so the normal 30-day election period (for coverage retroactive to the date of birth) would start 11/1/23. But if the NE ends on 5/11/23, the OP will end on 7/10/23 and the 30-day election period would start 7/10/23 and end 8/9/23.
 - Example 5: Employee has baby on 7/10/23. The election deadline is not tolled. The normal 30-day timeline to notify the employer would start 7/10/23 and end 8/9/23.

We do expect that the agencies will issue more guidance prior to May 11th on the ending of the PHE and NE emergencies, and we certainly expect that the various carriers and TPAs will also be providing information on their next steps in response. COBRA vendors and carriers/TPAs will need to adopt the necessary measures to comply with and administer the new changes and plan sponsors will need to consider how and when to communicate the new health plan coverage rules and revised deadlines for elections, payments, and losses of coverage.

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