

## **Compliance Alert – COVID-19 PHE and NE will expire May 11, 2023**

### **Client email – Further by HealthEquity**

**Subject line:** NOTICE: White House announces COVID-19 PHE and National Emergency will be allowed to expire

On January 30, 2023, the White House announced<sup>1</sup> its plan to allow the COVID-19 Public Health Emergency (PHE) and National Emergency periods to expire on May 11, 2023.

We have provided example scenarios in the Compliance Alert that demonstrate the impact of the national emergency period expiration. We encourage you to review each example to determine the impact on your specific plan(s).

**Read the full Compliance Alert to get the complete details [here](#).**

Although we encourage you to review the entire Compliance Alert, we have provided a summary of the content for your review:

### **Public Health Emergency**

During the PHE, group health plans are required to cover the cost of COVID-19 tests and testing-related services without cost-sharing or prior authorization or other medical management requirements. This was later expanded to include over-the-counter (OTC) home COVID-19 tests.

Although the PHE period was slated to expire April 11, 2023, with the White House's declaration that this period will be renewed again and then terminate it May 11, 2023 (prior to the end of the 90-day period), employer plans will no longer be required to cover such tests and services with no cost sharing.

### **National Emergency**

As previously stated, certain plan deadlines were suspended for up to one year as long as the national emergency was in place. Now that this national emergency will be terminated as of May 11, 2023, the 60-day period following the end of the national emergency will begin on May 12, 2023, thus counting down the end of the COVID-19 outbreak period.

Once this 60-day period ends (i.e., July 10, 2023), these suspended 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 30-day period (or 60-day period, in some cases) 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;
- Individuals electing COBRA outside of the initial 60-day election period (as referenced above) generally have one year and 105 days after the election notice is provided to make the initial premium payment; and individuals electing COBRA within the generally applicable 60-day election period have one year and 45 days after the date of their election to make the initial payment;<sup>2</sup>
- 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.

Once the national emergency period expires and the remaining 60 days of the Outbreak Period are underway, any remaining deadlines described above will resume on July 11, 2023.

### **Next steps**

HealthEquity will soon begin the process of amending our systems and participant communications to ensure all accurately reflect that statutorily prescribed deadlines will resume following the end of the Outbreak Period. You can expect additional communications and outreach as this work continues.

HealthEquity will continue to monitor agency guidance on this matter and provide additional updates as warranted.

Thank you,

*Your Further by HealthEquity team*

<sup>1</sup> <https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf>

<sup>2</sup> <https://www.irs.gov/pub/irs-drop/n-21-58.pdf>