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Client Alert Applies To: Self-Funded, Fully-Funded, Large Group, and Small Group

February 14, 2023

COVID-19 Emergency Declarations to End in May 2023

The Biden Administration recently announced its intent to end the COVID-19 Public Health Emergency and National Emergency on May 11, 2023. The end of these emergency declarations will impact employer group benefit plans in several ways.

The COVID-19 pandemic prompted Congress and federal agencies to issue temporary rules affecting employee benefit plans—some apply during the public health emergency, while others apply during the “outbreak period” related to the national emergency. For example:

- COVID relief legislation has required group health plans and insurers to cover COVID-19 diagnostic testing without cost-sharing, prior authorization, or other medical management requirements during the public health emergency. These requirements will end on May 11.
- Non-grandfathered plans have also been required to cover COVID-19 vaccines without cost-sharing and on an expedited basis, whether obtained through in-network or out-of-network providers. After May 11, non-grandfathered plans will still be required to cover COVID-19 vaccines without cost-sharing under the ACA’s preventive care mandate, but only when obtained at in-network providers.
- Finally, DOL and IRS guidance extended various plan-related deadlines by disregarding (or tolling) the “Outbreak Period,” which was defined as the earlier of (i) one year from the applicable deadline (determined on an individual basis) or (ii) 60 days after the end of the national emergency. This 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, and the deadline tolling period will end on July 10, 2023.
- Plan sponsors should consult with their advisors and/or third-party plan administrators (if self-funded) about planning now for the end of both declared emergencies.

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