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April 20, 2023

Recent Legislation Ends COVID-19 National Emergency Effective April 10, 2023

As an earlier [Client Alert](#)¹ stated, the Biden Administration recently announced its intent to end the COVID-19 Public Health Emergency and the COVID-19 National Emergency on May 11, 2023. However, on Monday April 10, 2023, following Congressional action, President Biden signed legislation that ended the COVID-19 National Emergency effective that day. The legislation did not affect the COVID-19 Public Health Emergency, which remains scheduled to end on May 11, 2023.

As noted in Moreton & Company's earlier [Client Alert](#)¹, the end of these emergency declarations affects employer group health plans in multiple ways. The COVID-19 pandemic sparked a variety of benefit coverage mandates and benefit plan participant accommodations that were tied to either the COVID-19 Public Health Emergency or the COVID-19 National Emergency.

Benefit Coverage Mandates— Public Health Emergency

As noted in Moreton's earlier alert, coverage mandates adopted during the pandemic included coverage of 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. Testing must still be covered, but only when ordered by a medical professional, and usual cost-sharing and in-network requirements can apply.

Similarly, during the Public Health Emergency, COVID-19 vaccinations had to be covered in and out of network without cost-sharing. 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.

Participant Accommodations – COVID-19 National Emergency

During the pandemic, various plan-related deadlines were tolled for the greater of (i) one year from the applicable deadline (determined on an individual basis) or (ii) 60 days after the end of the National Emergency (the "Outbreak Period"). The deadlines affected include benefit claim deadlines for participants and beneficiaries, deadlines for COBRA elections and premium payments, HIPAA special enrollments, and various ERISA disclosures.

The National Emergency has now ended effective April 10, 2023. Therefore, any applicable time period that is still stayed under the Outbreak Period relief would begin to run no later than June 9, 2023 (60 days after the end of the National Emergency) instead of July 10, the applicable date had the National Emergency ended on May 11, 2023, as originally announced. However, notwithstanding the legislation and the early end to the COVID-19 National Emergency, for sake of simplicity, the U.S. Department of Labor has indicated informally that it is contemplating a rule under which the Outbreak Period will still end on July 10. Moreton & Company will keep you posted.

¹ <https://www.moreton.com/2023/02/14/february-14-2023-client-alert/>

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