



President Biden Reveals Plan to End National COVID-19 Emergency

On January 30 President Biden issued a statement of policy to Congress in which he announced that the administration plans to end both the National Emergency related to COVID-19 originally declared by President Trump in 2020 and the public health emergency (PHE) declared by the U.S. Department of Health and Human Services (HHS) also in 2020. The ongoing declarations currently are set to expire on March 1 and April 11, respectively. The President’s statement announces the administration’s plan to end both declarations effective as of May 11, 2023.

The statement directly addresses two measures currently before Congress – H.R. 382 and H.J. Res. 7 – which call for an immediate end to the respective emergencies. Citing what the administration views as wide-ranging chaos and uncertainty throughout the health care system, for states, hospitals and doctors’ offices, and the general public, if the declarations were to end immediately, the President plans to extend the emergency declarations to May 11, and then end both emergencies simultaneously. This plan aligns with the administration’s previously stated intent to provide at least 60 days’ notice prior to termination of the ongoing PHE.

The administration further clarifies that nothing in the statement imposes any restriction on individual conduct regarding COVID-19, such as mask or vaccine mandates. Nor does the plan restrict school or business operations.

During both the PHE and the outbreak period (OP) related to the COVID-19 National Emergency, group health plans have been subject to various departmental guidance that has mandated particular coverage or relaxed or modified certain generally applicable rules governing health plan administration. Assuming the President follows through as announced, all of those modified rules will expire either on May 11, 2023, or July 10, 2023, and group health plans will need to be prepared.

Specifically, PHE guidance dictated that group health plans must pay for certain COVID-19 tests and related services at no cost. When the PHE ends, and the government stops buying testing kits, prices will undoubtedly rise, and plans must decide how they will cover such items and related costs. Whatever choices plan sponsors make, they will need to make sure to modify all plan documentation and descriptive materials to accurately reflect how these items and services will be treated. Further, they might need to prepare a 60-day notice of

reduction in plan benefits. Non-grandfathered plans will still be required to cover COVID-19 vaccines but can limit no-cost coverage to in-network providers.

The OP runs until 60 days after the end of the national emergency declared originally under President Trump and continued by President Biden. Assuming the President declares an end to the national emergency effective May 11, 2023, the OP will end 60 days later, or July 10, 2023. The OP end date will be particularly important for health plan sponsors, as it will start the clock running on various compliance dates and deadlines that have been relaxed during the OP.

Guidance issued during the OP has directed plans to ignore the OP for purposes of HIPAA special enrollment periods, COBRA election and premium payment periods, and participant notice periods relating to COBRA qualifying events and Social Security Administration disability determinations. Moreover, guidance gave participants more time to file claims and seek appeals of claims denials. Plans also were granted more time to issue certain notices like COBRA election notices. All of these extensions and tolling of deadlines will revert to pre-OP rules on July 10, 2023.

Finally, plans will need to review all forms, notices, and related communications regarding deadlines, claims, appeals, and notice requirements. It will be important to modify these materials as needed to remove references to the COVID-19 guidance, extended deadlines, and other information, that will expire when the PHE and OP end.

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