

## End of the COVID National Emergency and Public Health Emergency (PHE) May 11, 2023

By *BRSi Compliance*

Recently the Biden administration announced the end of the COVID National Emergency (NE) and related Public Health Emergency (PHE). Both were expected to end on May 11<sup>th</sup>. This would mean the Outbreak Period would end on July 10, 2023 (60 days after the end of the NE). However, as of this writing, there are indications President Biden may terminate the NE sooner. For now, the following information assumes an end date of May 11, 2023. If this date changes, we will promptly send out an update.

We will first review the COVID NE and PHE (health plan) provisions currently in place and then review what happens once the Emergency ends.

### What are the Health Plan provisions of the PHE and the National Emergency:

- **COVID Testing:** Under the Families First Coronavirus Response Act, COVID testing must be covered without employee cost-share (in and out of network) for the duration of the PHE. This applies to both lab testing and over-the-counter tests.
- **COVID Vaccines:** Under the Families First Coronavirus Response Act, vaccines must be covered without cost-share (in and out of network) for the duration of the PHE.
- **Medicaid:** For the duration of the PHE, states must maintain continuous enrollment to receive special federal funding. Requalification for Medicaid eligibility is eliminated during the PHE resulting in a significant enrollment increase in state Medicaid programs.
- **HIPAA Special Enrollment:** The National Emergency issued temporary rules permitting employees a period of up to one year to enroll in an employer's health plan due to qualified special enrollments. It also extended the time limit to file claims and claim appeals.
- **COBRA Special Enrollment:** The National Emergency issued temporary rules permitting terminating employees a period of up to one year to elect and pay for COBRA continuation.

### What are the Health Plan changes once the National Emergency and the PHE ends:

- **COVID Testing:** Employer sponsored health plans no longer must pay for testing.  
Self-Funded Plans: Employer Plans will have to decide if they want to continue to provide coverage for testing and at what level.  
Fully-Insured Plans: Most national and local insurance carriers have decided to cover standard COVID tests (through a doctor, lab or outpatient hospital) on an in-network basis only. Plan deductibles, coinsurance and copays will apply. Most will exclude COVID testing for employment, travel and sports requirements as well as exclude over-the-counter in-home tests

Continued on next page

- **COVID Vaccines:** COVID Vaccines will be added to the ACA list of preventive coverage. The government will be transitioning the cost of the vaccines back onto employer health plans.  
Self-Funded Plans: Employer Plans will need to cover and pay for the cost of vaccines but can limit coverage to in-network coverage only. Grandfathered plans will revert to the coverage they had prior to PHE. If vaccines were not covered, then COVID vaccines will not be covered (unless the sponsor elects otherwise).  
Fully-Insured Plans: Most national and local insurance carriers will be covering vaccines at the in-network level. Grandfathered plans will revert to the coverage they had prior to PHE. If vaccines were not covered, then COVID vaccines will not be covered (unless they elect otherwise).
- **Medicaid:** Medicaid’s continuous enrollment requirement ended on March 31, 2023. It is anticipated that millions of current Medicaid enrollees will no longer qualify and will be terminated from their respective state Medicaid programs. Over the next few months, employers should expect many of these employees to request enrollment in your company sponsored health plan. Not all employees will lose their Medicaid coverage all at once. The Centers for Medicare and Medicaid Services (CMS) has allowed states up to 12 months to “unwind” their ineligible plan participants.
- **HIPAA Special Enrollment:** For all employer sponsored health plans, the extended special enrollment period will end 60 days after the end of the national emergency. So, the special enrollment period will end on July 10, 2023 (60 days following the May 11, 2023, PHE end). Normal statutory HIPAA enrollment provisions will then apply. Please note, if a qualifying event occurred prior to July 10th, normal statutory enrollment periods will still begin on July 10, 2023. The days during the outbreak period will be an extension to the Normal statutory provisions.
- **COBRA Special Enrollment:** For all employer sponsored health plans, the extended special enrollment period will end 60 days after the end of the national emergency. So, the special enrollment period will end on July 10, 2023 (60 days following the May 11, 2023, PHE end). Normal statutory COBRA provisions will then apply. Please note, if a qualifying event occurred prior to July 10th, normal statutory enrollment periods will still begin on July 10, 2023. The days during the outbreak period will be an extension to the Normal statutory provisions.

**Communication:**

BRSi will be providing each of our clients with an employee notice (outlining these changes). If you have elected to utilize BRSi Online, we will also post this notice on your employee portal. In addition, your BRSi Advisor will be reviewing your plan documents to determine what (if any) updates need to be completed. Required document changes (if any) will be communicated to each client and amended accordingly.

