Engage PEO Client Alert

Federal Public Health and National Emergencies Expiring

WHAT'S NEW

The Department of Health and Human Services allowed the *public health emergency* determination to expire at the end of the day on May 11, 2023. On April 10, 2023, President Biden signed legislation ending the n*ational emergency* effective immediately. Healthcare employers may have continued obligations; see the rest of the alert for more information.

BACKGROUND

In early 2020, in response to COVID-19, the federal government made two emergency declarations. The U.S Department of Health and Human Services declared a *public health emergency* ultimately leading to the creation of laws pertaining to Covid 19 testing, vaccinations, and related services. Also, the President declared a *national emergency* prompting allowances and relief pertaining to healthcare coverage.

WHY IT MATTERS

Tests and Vaccines. As a result of the public health emergency determination, additional laws were put in place to require group health plans and health insurance issuers to provide COVID-19 diagnostic testing and COVID-19 vaccines at no cost during the duration of the public health emergency. The end of the public health emergency on May 11, 2023, will have the following effects:

- Group health plans and issuers will no longer be required to provide coverage for COVID-19 diagnostic testing.
- If a group health plan or issuer decides to offer coverage for diagnostic testing, they are permitted to require cost sharing.
- Group health plans and issuers will still be required to provide coverage, without cost sharing, for COVID-19 vaccines.
- Group health plans and issuers will not be required to provide coverage for a vaccine administered by an out of network provider if the plan or issuer has its own network of providers.

Medical Coverage. As a result of the public health emergency determination, laws were put in place to reduce requirements and conditions so that individuals could maintain Medicaid coverage. Once the public health emergency ends, state Medicaid and Children's Health Insurance Program (CHIP) agencies will resume regular eligibility and enrollment practices. Individuals who lose coverage may request special enrollment in a group health plan.

Notice and Election Requirements. As a result of the national emergency declaration, federal agencies issued emergency relief notices stating that certain time periods and dates for special enrollment and COBRA continuation coverage must be disregarded when determining due dates for certain elections and other actions by employee benefit plans during the COVID-19 national emergency.

These disregarded periods affect several notice and election timeframes pertaining to health insurance. Among other things, it increases the number of days an employee is allowed to enroll in benefits after a qualifying event, provides individuals with additional time to pay COBRA premiums and additional time to elect COBRA coverage.

The extensions permitted during COVID-19 will end 60 days after the national emergency ends (approximately June 9th).

WHAT EMPLOYERS SHOULD DO

Employers should get in touch with group health plan administrators to discuss what notifications are being provided to employees regarding any changes in coverages and to determine whether there is a need for increased time frames for special enrollment or a need for any other additional allowances. With some employees losing Medicaid coverage, there may be a larger than normal need for special enrollment in group health plans.

Employers should also review any COVID-19 testing and vaccine requirements that they have in place. Since payment for these items is no longer guaranteed, employers should consider whether they will continue to have such requirements in place and how they will handle the cost aspect.

Healthcare employers should be aware that the end of the public health and national emergencies does not alter OSHA'S COVID-19 Healthcare Emergency Temporary Standard, which mandates certain protective measures for healthcare workers. The Healthcare Emergency Temporary Standard continues to be in full force and effect and covered employers must comply with its requirements.

Please reach out to your Engage Human Resources Consultant if you have any questions concerning this alert or other H.R.-related matters.