

National Emergency and Outbreak Period Will End Sooner than Expected



April 3, 2023

Quick Facts

- In January, the White House announced the end of the National Emergency (NE) and Public Health Emergency (PHE) would take place on May 11, 2023; however, on March 29, 2023, Congress passed a resolution that ends the National Emergency immediately.
- Once President Biden signs the resolution it will become law, and the National Emergency will end.
- The resolution does not affect the end of the Public Health Emergency.
- The end of the National Emergency means the time period for regarding certain deadlines that affect employer benefit plans will end earlier than expected.

Background

Earlier this year, the White House announced that it intended to end the pandemic-related National Emergency and the separate Public Health Emergency on May 11, 2023. However, on March 29, 2023, Congress passed a resolution that ends the National Emergency immediately. President Biden has stated he will sign the legislation. This change means employee benefit rules subject to the National Emergency will end earlier than originally anticipated. The new legislation does not change the date for the end of the Public Health Emergency issued by the Department of Health and Human Services (HHS). HHS has not announced plans to change the end date for the Public Health Emergency from the previously declared May 11 date.

Two Emergency Periods

The **National Emergency** was first declared by President Trump on March 1, 2020, and has been renewed annually ever since. Subsequently, the Department of Labor (DOL), HHS, the Treasury Department (Treasury), and the Internal Revenue Service (IRS) issued a joint notice defining an Outbreak Period, which runs an additional 60 days after the end of the National Emergency. The joint notice Outbreak Period rules determine how long various benefits-related deadlines are extended, such as:

- COBRA notices, elections, and payments
- Special enrollment rights under the Health Insurance Portability and Accountability Act (HIPAA)
- Claims and appeals deadlines under the Employer Retirement Income Security Act (ERISA)

The **Public Health Emergency** was first declared by HHS in March 2020 and has been renewed every three (3) months since. The Public Health Emergency, among other things, requires health plans to cover various COVID-related services, like vaccines and tests at no cost.

End of the National Emergency

Once President Biden signs the legislation ending the National Emergency, the 60-day clock determining the end of the Outbreak Period will begin running. Depending on the actual date the legislation is signed into law, the Outbreak Period will end sometime near the end of May 2023.

Impact on Joint Notice Deadlines

The DOL, HHS, and Treasury also recently released [FAQs](#) clarifying how the end of the National Emergency will impact employee benefit-related deadlines. In short, for affected events that occurred less than 12 months before the end of the National Emergency, participants will have their normal deadlines imposed beginning the day after the end of the Outbreak Period.

Summary

EPIC will continue to provide updates and additional guidance on **National Emergency**-related benefit changes once the exact date of the end of the Outbreak Period is determined. Employers must also understand that issues related to the **Public Health Emergency** may still be subject to change effective with the original May 11, 2023, deadline announced by the Biden Administration unless HHS changes that timeframe.

EPIC Employee Benefits Compliance Services

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