**[SAMPLE NOTICE FOR PLAN SPONSORS]**

**NOTICE TO INDIVIDUALS ENROLLED IN THE [Insert Name of Employer Here] GROUP HEALTH PLAN**

The Biden Administration recently announced that it is ending two COVID-related emergencies on **May 11, 2023**:

1) the Public Health Emergency, and

2) the National Emergency.

This Notice outlines how the expiration of these Emergencies may impact you and your family.

**PUBLIC HEALTH EMERGENCY**

**Overview**

The Public Health Emergency was declared in early 2020, and required group health plans to comply with the following mandates:

* Cover COVID-19 diagnostic testing and ancillary services administered by a health professional without cost sharing or pre-authorization.
* Cover up to eight (8) over-the-counter (“OTC”) at-home tests per month without a doctor’s order or prescription, at no-cost to enrolled plan members.
* Cover COVID-19 vaccines and boosters without cost sharing or pre-authorization for both in-network and out-of-network providers.

**What will change when the Public Health Emergency declaration expires on May 11, 2023:**

1. **Diagnostic testing ordered or administered by a health professional**

Upon expiration of the Public Health Emergency on May 11, 2023, coverage of COVID-19 diagnostic testing and related services will revert to how your health plan would otherwise cover diagnostic testing and related services in the absence of the mandate. This means that you may have to cover the cost of these tests based on your specific plan’s coverage.

1. **At-home COVID tests**

After May 11, 2023, Pharmacy Benefit Managers (PBMs) are no longer required to provide access to at-home (or over-the-counter) tests without cost-sharing. Note, you can still obtain tests for purchase from your pharmacy retailer; however, it will be determined by your PBM’s policy on cost-sharing.

1. **COVID-19 vaccines**

Upon expiration of the Public Health Emergency, your group health plan must continue to cover COVID-19 vaccines at no cost – but only when obtained from an in-network provider. Coverage of these vaccines by out-of-network providers will revert to how your group health plan would cover any other vaccine by an out-of-network provider.

**NATIONAL EMERGENCY**

**Overview**

In addition to the Public Health Emergency, the Federal Government also declared a **National Emergency** in March of 2020 concerning the COVID-19 outbreak. This declaration allowed the Federal Government to suspend certain deadlines relating to health plan coverage and other liabilities for the duration of the declared emergency “Outbreak Period.” The “Outbreak Period” was declared on March 1, 2020 and will conclude 60-days following the National Emergency end date.

Pursuant to this declaration, the government suspended the following timeframes for both group health plans and their plan members during the Outbreak Period:

* The 30-day period (or 60-day period, if applicable) to request HIPAA special enrollment.
* The 60-day election period for COBRA continuation coverage.
* The 45-day period in which to make a first premium payment and 30-day deadline for subsequent premium payments.
* The 60-day period for qualified beneficiaries to notify the plan of certain COBRA qualifying events (*e.g.*, divorce, aging out of child dependent status, death of employee) or a determination of disability.
* The deadlines for plan members to file claims for benefits, and to appeal adverse benefit determinations.
* The four-month deadline for plan members to file requests for external review.

**What will change when the National Emergency declaration expires**

We now know that the National Emergency will end May 11, 2023. **Accordingly, the Outbreak Period will come to an end universally on July 10, 2023** (60 days after the end of the National Emergency).

The suspension for the above-referenced timeframes will last until the earlier of:

1. One (1) year from the date that any applicable time period would have otherwise begun running for the particular plan member, or;
2. 60-days from the end of the National Emergency (e.g. the Outbreak Period) **on July 10, 2023**, and the above-referenced timeframes that have not yet expired under the one year rule will begin.

Below are examples to illustrate the above rules:

* **Scenario 1:** John was sent a COBRA election notice on July 1, 2022. The 60-day election period was suspended until the earlier of (i) one year from July 1, 2022 or (i) July 10, 2023. The Outbreak Period for John’s election period will end June 30, 2023, which is earlier than July 10, 2023. The one-year rule applies, meaning the 60-day clock resumes on July 1, 2023, and John’s COBRA election period ends on August 30, 2023. (The July 10,2023 universal end to the Outbreak Period has no impact on John’s COBRA election period because John already received the full benefit of the one-year suspension prior to July 10, 2023.)
* **Scenario 2:** Adam received an adverse benefit determination on August 1, 2022. Adam’s 180-day period to appeal was suspended due to the Outbreak Period until the earlier of (i) one year from August 1, 2022 or (i) July 10, 2023. Because July 10, 2023 is earlier, the one-year rule does not apply, and this 180-day time period to appeal resumes on July 11, 2023 (the Outbreak Period expires universally the day before on July 10, 2023). In other words, day one of the 180-day time period to appeal begins on July 11, 2023 and ends on January 6, 2024.
* **Scenario 3**: Allison’s claim was incurred on May 1, 2022. Allison has one year to file her claim with her group health plan, pursuant to the terms of Allison’s Summary Plan Description. This one-year timeframe is suspended, beginning May 1, 2022, until the earlier of (i) one year from May 1, 2022 or (i) July 10, 2023. Since May 1, 2023 is earlier than July 10, 2023, one year period for filing a claim resumes on May 1, 2023. Accordingly, Allison has until May 1, 2024, to file her claim with her group health plan (The July 10,2023 universal end to the Outbreak Period has no impact on Allison’s claim filing deadline because Allison already received the full benefit of the one-year suspension prior to July 10, 2023.)
* **Scenario 4**: ABC Company’s Health FSA has a run-out period that ends March 31 (90 days) after the end of each plan year. The run-out period for the 2021 plan year would have begun January 1, 2022, and ended March 31, 2022, but due to the Outbreak Period, the time period for filing claims during the run-out period was suspended. The Outbreak Period with respect to the 2021 Run-Out Period ended December 31, 2022, which means the 90-day clock for the 2021 run-out period started running again on January 1, 2023, and claims for the 2021 plan year must be filed by March 31, 2023.