



The End of the Pandemic ... or Not?

In February 2023, the U.S. Secretary for Health and Human Services announced the planned end of the federal Public Health Emergency (PHE) for COVID-19. On May 11, the PHE officially concluded. For employers, this has a number of implications, including a change in required coverage by employer-sponsored health plans of testing and treatment for COVID-19. According to updated guidance issued by the Center for Disease Control and Prevention (CDC), insurance providers may begin billing for laboratory tests and COVID-19 treatments. Additionally, vaccination requirements for federal employees, federal contractors and Medicare covered facilities have ended.

In addition to the CDC other federal agencies have provided updates regarding the end of the PHE, including the following:

- The U.S. Equal Employment Opportunity Commission (EEOC) has [provided updated guidance](#) on its website regarding how the end of the PHE impacts employer obligations under the Americans with Disabilities Act (ADA) and other anti-discrimination laws. As noted in the EEOC's guidance, the end of the PHE does not mean employers no longer have an obligation to provide reasonable accommodations related to COVID-19. However, employers may want to take the opportunity to consult with employees and discuss whether certain accommodations should continue. Additionally, the EEOC guidance provides examples of common accommodations to consider for employees with "long COVID."
- The U.S. Department of Labor [provided guidance](#) for employer health plans. Employers may want to become familiar with changes to required health plan coverage that will result from the end of the PHE, as well as an end to the extension of certain health plan deadlines, including those for electing and

paying for COBRA coverage.

- During the PHE, the U.S. Department of Homeland Security (DHS) provided flexibility for employers in completing I-9s, allowing for remote completion of the form. DHS [has announced](#) that effective as of July 31, 2023, this flexibility will end, and employers will only have until August 30, 2023, to complete in-person physical document inspections for employees whose documents were inspected remotely during the PHE.

In addition to these impacts on the federal level, employers should review whether individual state requirements remain in effect. For example, some states have required employers to provide additional hours of paid sick leave during the COVID-19 public health emergency. Some of these requirements have been tied to the federal emergency declaration, and some state requirements are tied to other events or have become permanent.

Key Takeaways

- The end of the COVID-19 PHE does not mean the end of COVID-19 in the workplace (or elsewhere). Employers should continue to assess the impact of COVID-19 and other health conditions on safety and health in the workplace.
- Unless DHS publishes a Final Rule in the interim, employers only have a few short months to complete in-person physical document inspections for employees whose I-9 employment authorization documents were inspected remotely due to COVID-19.

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