



End of the Public Health Emergency

It was recently announced that based on current COVID-19 trends, the Department of Health and Human Services (HHS) is planning to end the federal Public Health Emergency (PHE) for COVID-19, declared under Section 319 of the Public Health Service (PHS) Act. The PHE is set to expire at the end of the day on May 11, 2023.

With the end of the PHE comes numerous changes and the expiration of flexibilities and policies put in place during the PHE. However, it should be noted that some of the flexibilities that were granted during the PHE will remain in effect even after the May 11th expiration. HHS has stated that it continues to review the numerous flexibilities and policies implemented during the PHE to determine if additional flexibilities and policies should remain in place, even if only for a temporary period.

Important items to note for the end of the PHE:

What will be affected according to HHS and CMS:

- Section 1135 National Blanket Waivers will end at the end of the PHE
- For Medicaid, some additional COVID-19 PHE waivers and flexibilities will end at the end of the PHE, while some will remain in place for six months. Many Medicaid waivers and flexibilities are available for states to continue beyond the PHE (i.e. waivers that support home and community-based services)
- All emergency waivers for states and facilities for nursing aide training will end at the end of the PHE
 - Facilities will have until September 10, 2023 to have all nurse aides complete a state approved NATCEP/CEP (for those hired prior to the end of the PHE)
- CRNA Scope of Practice Waiver (for hospitals, CAHs, and ASCs) will end at the end of the PHE
 - States may apply for an exemption to waive this requirement
- Emergency Health and Safety requirement Waivers will expire at the end of the PHE
 - This includes the extended time frame to complete a medical record at discharge
- Ability of DEA-registered practitioners to prescribe controlled substances via telemedicine without an in-person interaction
 - However, the DEA is planning to initiate extending these flexibilities under certain circumstances (the DEA will issue guidance in the coming months)
- Coverage for COVID-19 Testing
 - Medicare: Part B enrollees will continue to have coverage without cost sharing for laboratory conducted tests ordered by a provider, but access to free over the counter tests will end



- Medicaid: Mandatory coverage until September 30, 2024 and then coverage may vary by state
- Private Insurance: Coverage requirement will end; however, coverage may continue depending on plan
- Reporting of COVID-19 Lab results and immunizations to CDC
 - Hospital data reporting will continue as required by CMS conditions of participation through April 30, 2024. However, reporting may be reduced to a lesser frequency from the current daily reporting
 - At the end of the PHE, HHS will no longer have the authority to require lab testing reporting for COVID-19

What will not be immediately affected according to HHS and CMS:

- Access to COVID-19 vaccinations and certain treatments
 - Out of pocket expenses for certain treatments may change with time
 - Medicaid will cover all COVID-19 vaccines without a co-pay or cost sharing through September 30, 2024
- FDA's EUAs for COVID-19 products
- Telehealth – Medicare Flexibilities:
 - The large amount of current Medicare telehealth flexibilities will remain in place through December 31, 2024 due to the bipartisan Consolidate Appropriations Act, 2023:
 - i. Medicare enrollees can access telehealth services in any geographic area in the United States, rather than only those in rural areas
 - ii. Medicare enrollees can stay in their homes for telehealth visits that Medicare pays for rather than traveling to a health care facility
 - iii. Certain telehealth visits can be delivered audio-only (such as a telephone) if someone is unable to use both audio and video
- Telehealth - Medicaid and CHIP:
 - Telehealth flexibilities are not tied to the end of the PHE. Coverage will vary by state
- Telehealth - Private Insurance:
 - Coverage will vary for telehealth and other remote care services after the end of the PHE as is currently the case during the PHE
- Acute Hospital Care at Home Initiative
 - Will be extended through December 31, 2024 under the Consolidated Appropriations Act, 2023.
- Virtual Supervision
 - Will expire on December 31, 2023.



More information will become available in the coming weeks. Contact Andrea Merritt at amerritt@athencompliance.org for more information.

For additional information and resources, HHS and CMS guidance can be found at:

[HHS: Fact Sheet - COVID-19 Public Health Emergency Transition Roadmap](#)

[CMS: What Do I Need to Know?](#)

[Coronavirus waivers & flexibilities](#)