

The End of the COVID-19 Public Health Emergency

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On Friday May 5, 2023, the World Health Organization declared the end of the COVID-19 pandemic Global Health Emergency. The federal government has determined that May 11, 2023 will be the official end of the PHE. In March 2020, I do not think most of us ever dreamed we would still be dealing with this public health emergency until May 2023 – and with the COVID-19 virus that will remain in our midst for a very long time to come. The rapid changes in health care procedures and covered that occurred early in the PHE were numerous. With the ending of the PHE will mean the end of many of the waivers that were granted early in the pandemic. However, there are several provisions granted during the PHE that will continue for sometime and some that may become permanent. This is a review of the flexibilities and waivers impacting Optometrists that will be changing and the timeline for such changes.

COVID-19 Testing and Vaccines: COVID-19 PCR/antigen laboratory tests will need to be ordered in order to be covered without out-of-pocket costs for Medicare Part B patients but not for over-the-counter COVID-19 tests. Over-the-counter tests will still be available, but there may be out-of-pocket costs which can vary depending on the type of insurance other than Medicare Part B. Medicaid patients will continue to have coverage for over-the-counter and laboratory COVID-19 testing through September 30, 2024, after which coverage may change and can vary by state. Both Medicare Advantage plans and private insurance may have other coverage policies after May 11, 2023. You can find the CMS summary [here](#). Access to COVID-19 vaccinations and certain treatments, such as Paxlovid and Lagevrio, via Medicare will continue without cost sharing and generally will not be impacted but this could vary with private insurers.

Telehealth Rules: Many of the Medicare telehealth policies will be in place, at this time, through December 31, 2024. Some of these policies could be extended beyond this date but these decisions will be made in the 2024 Final Rules. The changes that will remain into effect include Medicare patient access to telehealth services without geographic limits including at home telehealth services. Some telehealth visits will still be allowed to be delivered via audio-only when patient cannot use both audio/video communication. Audio-only services should be coded using audio-only telephone E&M services and/or behavioral health counseling and educational services, as appropriate. All other services included in the Medicare Telehealth Services List must be performed using two-way, real-time audio and video interactive communication between the provider and the distant site provider. Any provider who can bill Medicare services can provide Telehealth Services. For now, continue to bill the place of service the same as if the service would have been provided face-to-face (Office=11). After December 31, 2023, providers will be again required to list their home address as a physical location for services on their Medicare applications, if services are provided from their home. This requirement had been waived during the PHE. Remember to append modifier -95 to indicate the service was provided via telehealth. The Medicare Final Rules 2021 made permanent the following: E-visits: non-face-to-face communications using online patient portals (CPT codes 99421- 99423) for physicians. Two further points: On May 3, 2023, the DEA administrator issues a statement that they, in conjunction with DHHS will extend the current flexibilities telehealth flexibilities for the time being. Specific details will be released when the rules are published in the Federal Register. And, remote evaluation of a patient's video/images and virtual check-in services (HCPCS-G2010 and G2012) allowed for new and established patients will be allowed after May 11, 2023 but only when provided to established patients. Again, at this time, some of the telehealth provisions expire on December 31, 2024 per the Consolidation Appropriations Act, 2023.

Medicaid Eligibility: The process for states to begin eligibility redeterminations for Medicaid began as early as March 31, 2023. Please be very aware that some Medicaid patients may have their coverage ended as they will no longer be eligible. Providers should carefully check insurance coverage for those patients.

Stark Law Waivers End: On May 11, 2023, the Stark Law waivers regarding self-referrals will end. Providers will again have to immediately comply with all provisions of the Stark Law.

Provider Supervision: During the PHE the definition of direct supervision (requires supervising physician/practitioner to be "immediately available" to furnish assistance and direction during the service) included the "virtual presence" of the

supervising provider via real-time audio and video technology. However, this flexibility will end on December 31, 2023 and return to pre-PHE rules.

Medical Record Documentation Rules: At this time, the simplified documentation requirements put in place by the 2020 Medicare Final Rules will continue without interruption post PHE. The simplified documentation rules allow providers to review and verify information added to the by staff rather than redocument the information in the medical record.

MIPS Extreme and Uncontrollable Circumstance (EUC): This policy is not being automatically applied to all individual MIPS eligible clinicians for the 2022 and 2023 performance years. But, individual clinicians, groups, virtual groups, and APM entities have the option to submit a [MIPS EUC application](#) and request reweighting for this reporting year.

Physician Location: State or local licensure requirements, or any requirement specified by the state or a local government as a condition for waiving its licensure requirements that a physician provider must be licensed in the state in which they are practicing will still apply post PHE.

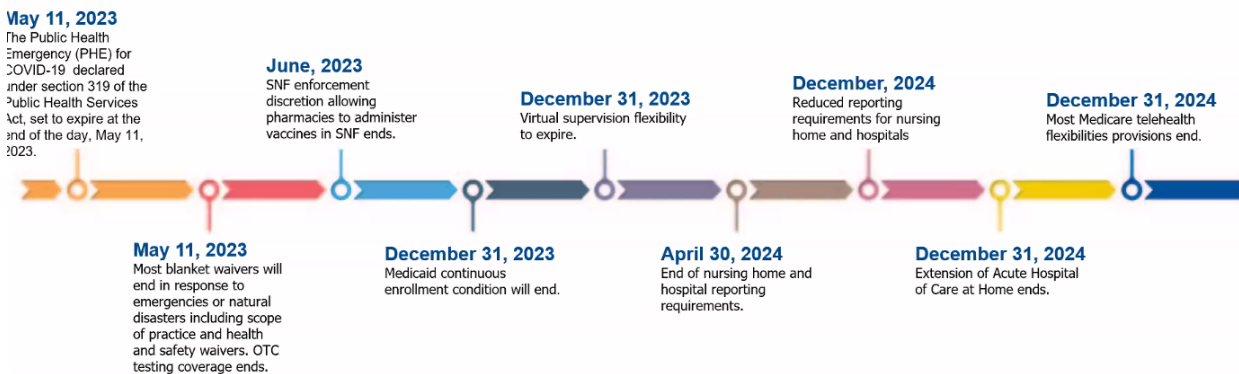
Substitute Billing Arrangements/Locum Tenens: The 60-day time limit for either substitute billing arrangements or fee-for-service (locum tenens) arrangements will be reinstated on the 61st day post PHE. Providers must use a different substitute or return to work in his or her practice for at least one day in order to reset the 60-day clock. This rule had been suspended during the PHE.

CMS Provider Enrollment/Revalidation: All provider applications and enrollment revalidations will return to normal after the end of the PHE on May 11, 2023 and will no longer be delayed. Provider applications will no longer be expedited. Revalidations have been phased back in since October 31, 2021.

Happy Coding...

Time Line:

Waivers & Flexibility Timeline



References:

<https://www.hhs.gov/about/news/2023/02/09/fact-sheet-covid-19-public-health-emergency-transition-roadmap.html>

<https://www.cms.gov/newsroom/fact-sheets/cms-waivers-flexibilities-and-transition-forward-covid-19-public-health-emergency>

<https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>

WHO: [https://www.who.int/news/item/05-05-2023-statement-on-the-fifteenth-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-coronavirus-disease-\(covid-19\)-pandemic](https://www.who.int/news/item/05-05-2023-statement-on-the-fifteenth-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-coronavirus-disease-(covid-19)-pandemic)

DEA: <https://www.dea.gov/documents/2023/2023-05/2023-05-03/statement-dea-administrator-anne-milgram-covid-19-telemedicine>

Novitas: [End of COVID-19 public health emergency \(PHE\) information](#)

[Coronavirus \(COVID-19\) information](#)

[COVID-19 vaccine and monoclonal antibodies](#)