

# White House announces the end date of the (PHE) Public Health Emergency to end on May 11<sup>th</sup> 2023

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An announcement on Monday, January 30<sup>th</sup>, by the OMB (Office of Management and Budget), and the White House, stated that they plan to end the COVID-19 national emergency and public health emergency on May 11<sup>th</sup>.

The end of the emergency declarations would signal a new chapter in the Biden administration's response to the COVID pandemic. The (PHE) public health emergency was enacted by the Trump administration in 2020, in response to the COVID-19 pandemic and has been extended 12 times in the past almost, three years, by our former and current HHS Secretary.

The White House's plan to end the public health declaration May 11 came in a statement opposing two Republican House Bills that would end the emergency declarations sooner.

"This wind-down would align with the Administration's previous commitments to give at least 60 days' notice prior to termination of the PHE," the White House said in a statement. In August 2022, CMS issued a statement on their website, encouraging providers and hospitals to start their processes for moving away from the public health emergency<sup>1</sup>.

## WHY THIS MATTERS

The end of the emergency will also mean states must start the laborious process of redetermining Medicaid eligibility for more than 3 million covered patients.

Congress' end-of-year spending package gave clarity on another part of the public health emergency: the end of the continuous coverage requirement for Medicaid.

At the start of the pandemic, the federal government increased the matching rate for Medicaid payments to states, but only if the state would not drop anyone off Medicaid's rolls for the duration of the public health emergency. The spending package, however, enabled states to start Medicaid eligibility redeterminations April 1. This was necessary because many patients went back to work, were not eligible for Medicaid, and are sitting with dual coverage, which is very expensive for states, when the patient has employer sponsored health insurance already.

The White House statement went on to say, "Ending these emergency declarations in the manner contemplated by H.R. 382 and H.J. Res. 7 would have two highly significant impacts on our nation's health system and government operation," the statement said. "An abrupt end to the emergency

declarations would create wide-ranging chaos and uncertainty throughout the health care system—for states, for hospitals and doctors’ offices, and, most importantly, for tens of millions of Americans."

However, the statement, did not take into account the 2022 Consolidated Appropriations Act, and the 2023 Omnibus Bill that was signed into law on 12/29/2022, which will extend many of the 1135 Waiver Flexibility’s under the CARES Act, including Telehealth once the PHE ends.

The Omnibus Act, that Congress passed late last year, extended many Telehealth services and reimbursements under Medicare. One rule of note was the originating site requirements for patients receiving Telehealth services. They may still use their home as an “originating site” to receive Telehealth services. The rules on crossing State-lines however, have expired in many states and we encourage practices to research if their state will still allow their physician to practice medicine in a state where they are not licensed. Most won’t. The link below will help in this determination<sup>2</sup>.

The current PHE was set to expire on April 11<sup>th</sup> 2023. The original national emergency that was declared on March 13, 2020, was set to expire on March 1, the OMB said.

The announcement gives providers more than their promised 60-day notice of the end of the PHE and the termination of many of the waivers the Centers for Medicare and Medicaid Services put in place to ease restrictions on hospitals and other providers during the public health emergency.

The Biden administration's plan is to extend the national emergency declaration and the PHE to May 11<sup>th</sup>, and then end both emergencies on that date.

The OMB also announced on Monday that H.R. 497, which it opposes, would end the COVID-19 vaccine mandates for healthcare providers. Once the PHE ends, it is unclear if those mandates will be lifted, but it appears that they will be.

## **THE LARGER PICTURE**

The PHE has been extended 12 times since it was first made in January 2020, effective March 1<sup>st</sup>, 2020.

The current PHE, extended by current Health and Human Services Secretary Xavier Becerra on January 11, was scheduled to end on April 11. Providers' promised 60-day notice would have been on February 10<sup>th</sup>. This is an additional 30-days to that 60-day promise to work on the rollbacks.

## **WHAT HASN'T BEEN ADDRESSED IN THE POST-PHE ERA**

- Audio only Telehealth was extended through 2024 for some services, but “payment parity” only extended through 2023.
- New patients’ were allowed to be seen under the PHE, but once the PHE ends, only established patients will be able to receive Telehealth services, reverting back to the original rule that there “.has to be an established patient relationship..” to engage in Telehealth services.
- OCR (Office of Civil Rights) office announced after the OMNIBUS Bill was signed into law, that even though Telehealth will still be allowed through 2024, the non-HIPAA platforms that were

allowed, (e.g. Skype and FaceTime), will no longer be an option. Patients and Providers will have to engage in HIPAA secured platforms for the delivery of Telehealth.

- Behavioral Health Services will continue to be allowed under Audio and Video and Audio only rules, with some restrictions and identifying modifiers.
- The POS (Place of Service) can continue to be the POS that would have been appropriate if the patient was seen in-person. However, POS 10 can be used when the patient's originating site is their home. Reimbursement may be based on facility rates instead of non-facility rate.

There are more rules to discuss. I invite you register for in the Medicare 1<sup>st</sup> Quarter Webinar update with NSCHBC. You can register here: [https://nschbc.org/catalog\\_qtrly](https://nschbc.org/catalog_qtrly)

***References:***

<sup>1</sup> [Creating a Roadmap for the End of the COVID-19 Public Health Emergency | CMS](#)

<sup>2</sup> <https://www.cchpca.org/topic/cross-state-licensing-professional-requirements/>  
<https://www.google.com/search?client=firefox-b-1-d&q=End+of+PHE+White+House+announcement>