

**The PHE, Public Health Emergency has been extended a 10th time in 7/15/2022, extending through October 13th, 2022. Please read our update for what has expired, what is still in effect, and how to stay compliant in your Telehealth Services.**

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**Renewal of Determination That A Public Health Emergency Exists**

As a result of the continued consequences of the Coronavirus Disease 2019 (COVID-19) pandemic, on this date and after consultation with public health officials as necessary, I, Xavier Becerra, Secretary of Health and Human Services, pursuant to the authority vested in me under section 319 of the Public Health Service Act, do hereby renew, effective July 15<sup>th</sup>, 2022, the January 31, 2020, determination by former Secretary Alex M. Azar II, that he previously renewed on April 21, 2020, July 23, 2020, October 2, 2020, and January 7, 2021, and that I renewed on April 15, 2021, July 19, 2021, October 15, 2021, and January 14, 2022, and April 16<sup>th</sup>, 2022, that a public health emergency exists and has existed since January 27, 2020, nationwide.

As expected, the COVID-19 PHE (Public Health Emergency) has been extended another 90-days, effective July 15<sup>th</sup>, 2022. This means that “most” waivers under the 1135 CARES Act of 2020 will continue to stay in effect through this period, through October 12<sup>th</sup>, 2022, while others are winding down.

CMS has already alerted providers that many nursing home compliance standards have phased out, while still protecting those residents.

During the PHE, CMS used a combination of emergency waivers, 1135 Regulations, and sub regulatory guidance to offer healthcare providers the flexibility needed to respond to the COVID-19 pandemic. Also, check local and state waivers, as many states have let their state waivers expire when physicians are crossing state lines to see patients via Telehealth.

An example is in Florida, where Expiration of Emergency Order 20-002 and Emergency Order 20-003 related to COVID-19 expired on June 26, 2021. The expiration of these orders impacts the following services that were temporarily authorized in the state of Florida:

- Out-of-state health care practitioners are no longer authorized to render services for patients in Florida unless they become licensed to practice in Florida, except as specified in the HHS Guidance Memorandum Dated 3/12/2021, regarding vaccine administration.

- Out-of-state health care practitioners are no longer authorized to perform telehealth services for patients in Florida unless they become licensed or registered in Florida.
- Qualified physicians are required to conduct an in-person physical examination to issue a physician certification for any patient.
- Controlled substance prescribers are required to conduct an in-person physical examination to issue a renewal prescription for a controlled substance.

Many other states also let these EO's/Waivers expire. So physicians that are providing service via telehealth for patients, not in their home state, would have to be licensed in the state they are performing these services, or where the patient is located as well.

### **Telehealth:**

The good news is that access to certain services, primarily Telehealth Coverage, continues not only through October 12<sup>th</sup>, under the waiver 1135 Flexibilities, but also with the Consolidated Appropriations Act of 2022 Congressional extension, many Telehealth services will continue to be covered for 151 days after the PHE ends. But what does that mean exactly and are there any variables that need to be addressed?

Telehealth with the patient using their home as the originating site, will continue to be allowed when billing for office visits when an audio and video connection exists. Audio only visits billed with telephone CPT® codes, will continue for another 90-days as well, and Behavioral Health Services, will need certain modifiers to reflect audio only in 2022.

### **References:**

<https://aspr.hhs.gov/legal/PHE/Pages/covid19-15jul2022.aspx>

<https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and-memos-states-and/update-covid-19-emergency-declaration-blanket-waivers-specific-providers>