

Medicare and Medicaid Flexibilities Afforded Under the COVID-19 Public Health Emergency

When the **public health emergency** (PHE) associated with the COVID-19 pandemic ends, several temporary authorities will expire, continuous enrollment requirements will end, and additional federal medical assistance percentage (FMAP) will revert to normal. The Secretary of the Department of Health and Human Services (HHS) has the authority under certain conditions to declare a PHE, which can be issued for up to 90 days and renewed in 90 days intervals. Congress must be notified of the PHE declaration within 48 hours and other agencies must also be alerted. The Secretary can declare a PHE if they determine that a disease, outbreak, or disorder has occurred, and while the Secretary is encouraged to consult with public health officials, it is not required. Former HHS Secretary Alex Azar issued a [PHE declaration](#) on January 27, 2020, for COVID-19 and renewed said PHE four times until the administration changed. Secretary Xavier Becerra has renewed the PHE another four times, **with the [most recent renewal](#) extending the PHE to April 16, 2022.**

In January 2021, Acting HHS Secretary Norris Cochran sent a [letter](#) to the nation's governors assuring them that he would provide a 60-day notice prior to ending the PHE. The statement suggests that the PHE declaration is likely to last until at least July 15, 2022, but a further extension beyond that date is uncertain. A group of Medicaid directors, health plans, and advocacy groups sent a [letter](#) in February requesting that HHS provide 120 days' notice before unwinding FMAP provisions and reinstating eligibility redetermination. However, Secretary Becerra recently said that it would be difficult for HHS to provide longer than 60 days' notice.

- **Background.** The global COVID-19 pandemic necessitated the implementation of a broad variety of flexibilities in the U.S. health care system. Under U.S. law and regulation, many of these flexibilities were made possible by: (1) the Trump administration's and subsequently the Biden administration's declaration of an emergency under the National Emergencies Act (NEA); (2) the president's declaration of emergency under the Stafford Act; and (3) the HHS Secretary's declaration of a PHE under the Public Health Service Act (PHSA). These declarations — or a combination thereof — permit agencies to take certain extraordinary actions or to permit specified actions by payers and providers that would typically be prohibited. In particular, the combination of an emergency declaration and a PHE permit the use of section 1135 of the Social Security Act (SSA), which allows for the waiver of broad sections of the SSA with regard to Medicare, Medicaid, and CHIP.

In addition to the emergency powers already available to the HHS and other agencies, **Congress created, in a series of emergency response bills, a range of policies intended to address the pandemic.** This included wide latitude to provide, and be reimbursed for, telehealth services during the pandemic. It also included: (1) a boost to the federal share of the Medicaid program; (2) an add-on payment for hospitals treating patients with COVID-19; (3) a requirement for payers to cover COVID-19 tests without cost sharing; and (4) provider relief funding during the period of the PHE. **These powers are largely tied to the existence of a PHE** (and thus, scheduled to sunset on April 16, 2022, absent renewal). In addition, HHS and other agencies have engaged in emergency rulemaking, granting waivers to states, and invoking enforcement discretion that are also largely tied to the PHE.

Notably, a federal PHE declaration enables states to submit **section 1135 waiver** requests that, if approved by HHS, **allow states to execute additional flexibilities over their respective Medicaid and CHIP programs.** Requirements eligible for section 1135 waivers include: (1) certain conditions of participation for Medicaid and CHIP programs; (2) state licensure requirements for health care providers; (3) sanctions and penalties related to HIPAA and Emergency Medical Treatment and Labor Act (EMTALA) requirements; (4) performance deadlines; and (5) payments for Medicare Advantage (MA) out-of-network (OON) services.

- **What's Next?** The latest PHE declaration is set to expire on April 16, 2022. However, the window for a 60-day termination warning from HHS has passed, hinting at another 90-day extension through July of 2022. Upon conclusion of the PHE, the Centers for Medicare and Medicaid Services (CMS) has indicated that it will allow 14 months to complete the Medicaid and CHIP redetermination process. However, many other flexibilities will end immediately upon the PHE's expiration. States, beneficiaries, providers, and other stakeholders are urging for ample warning before terminating the PHE, claiming that abrupt policy changes will hinder their ability to smoothly transition back to pre-PHE operations.

PHE EXTENSIONS AND EUA VACCINES, THERAPEUTICS

Many stakeholders are working under the assumption that the PHE will be extended until emergency use authorization (EUA) vaccines are granted full approval. This process will likely take time as the Food and Drug Administration (FDA) reviews EUA applications on an apolitical basis. Should the PHE end, people will be unable to receive an EUA vaccine — which includes the Johnson and Johnson vaccine, the Pfizer vaccine for those under 16 years old, and Moderna for children under 18 years of age. The Biden administration would have to extend the PHE — should children require additional Pfizer or Moderna vaccinations — until these vaccines are fully approved. Another consideration is COVID-19 testing that is available under EUA. Aside from the fully approved test made by BioFire Diagnostics, other COVID-19 tests would no longer be operable under EUA if the PHE is terminated.

While it is likely that the PHE will continue to be extended until EUA vaccines and therapeutics receive full authorization, HHS has the authority to extend only certain PHE flexibilities. It is possible that, over time, HHS may decide that certain current PHE flexibilities are

unnecessary and may choose to only extend the PHE for EUA testing and vaccination purposes. Since Medicaid, Medicare, and CHIP PHE flexibilities are severable from future PHE declarations, it cannot be assumed that the FDA's failure to approve EUA vaccines and therapeutics imply the extension of other PHE flexibilities. However, PHE flexibilities codified in statute cannot be terminated by HHS in future PHE renewals.

RECENT PHE RELATED GUIDANCE ISSUED BY CMS

On March 3, 2022, CMS released [guidance \(TRP's analysis\)](#) providing states with 14 months to process Medicaid and CHIP renewals after the PHE comes to a close. Specifically, this guidance provides tools and resources for states to restore routine Medicaid and CHIP eligibility and enrollment during the unwinding period, promote coverage continuity, and facilitate beneficiary transitions into qualified health plans (QHPs) in federal or state marketplaces, among other items.

Previously, the Biden administration had given states 12 months to resume the redetermination process. The updated guidance also notes that states can begin the redetermination process up to two months before the PHE ends, which is roughly the same amount of notice that the Biden administration expects to provide before bringing an end to the PHE.

PHE RELATED POLICIES IN THE FISCAL YEAR (FY) 2022 OMNIBUS

Recently, President Biden signed into law the \$1.5 trillion omnibus spending package ([text; summary](#)) after the Senate reached an agreement on amendment votes to the underlying legislation prior to final passage. With the White House reiterating the need for additional pandemic relief funds, congressional Democrats will try to move a separate standalone [measure](#) in the coming weeks that would provide close to \$10 billion for various pandemic-related areas of need. However, the path forward in the 50-50 Senate is unclear due to GOP opposition to additional COVID-19 spending that is not offset.

Contained within the omnibus spending package ([TRP analysis](#)) are provisions that allow certain 340B entities to remain eligible to participate in the program through December 31, 2022, even if they fail to meet certain requirements as a result of COVID-19. It would also extend FMAP enhancements to U.S. territories until December 13, 2022. Additionally, Congress included several provisions that would extend telehealth flexibilities for Medicare beneficiaries through December 13, 2022.

ADMINISTRATIVE AND CONGRESSIONAL PHE AUTHORITIES

Declaration/ Flexibility	Authority	Description	Expiration Timeline
The HHS PHE Declaration for COVID-19	PHSA	<p>Effective: January 27, 2020 First Extension: March 1, 2020 Last Extension: January 14, 2022 Current End Date: April 16, 2022</p> <p>Section 319 of the PHSA gives the HHS Secretary the authority to determine that a PHE exists and to exercise certain emergency authorities.</p>	PHEs can be declared for up to a 90-day period and can be renewed in 90-day increments until an emergency no longer exists.
The President's National Emergency Declaration (NEA)	The NEA	<p>Effective: March 1, 2020 Recent Extension: Feb. 18, 2022 Current End Date: February 18, 2023</p> <p>The NEA provides for a broad declaration of emergency by the President. To declare an emergency, the President must publish a proclamation of national emergency in the <i>Federal Register</i> and specify the emergency authorities that will be invoked.</p>	Each chamber of Congress must meet no later than six months after a declaration, and every six months after that, to consider terminating the emergency. Additionally, national emergencies automatically terminate on the anniversary of the declaration barring a Presidential notice that keeps the emergency active. The President may also declare that an emergency no longer exists.
The President's Stafford Act Declarations	The Stafford Act	<p>Issued: March 13, 2020</p> <p>The Stafford Act is generally focused on more localized emergencies and authorizes assistance from the Federal Emergency Management Agency (FEMA), among other things. Under the Stafford Act, the President may declare an emergency or a major disaster. Certain emergencies can be declared unilaterally by the President, though major disaster declarations must be requested by state, territorial, or tribal governments. This declaration authorized only public assistance emergency protective measures from FEMA.</p>	As the Stafford Act primarily serves to provide disaster relief assistance in active emergencies, the Act does not provide for a date-certain termination of emergency declarations. Thus, it does not require renewal.
The American Rescue Plan (ARPA)	ARPA	<p>Enacted: March 11, 2021</p> <p>ARPA provides vaccines with no cost sharing in Medicaid and CHIP, as well as 100 percent FMAP to states for the uninsured to receive vaccines.</p>	Vaccine coverage will expire one year after the PHE.

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Families First Coronavirus Response Act (FFCRA)	FFCRA	<p>Enacted: March 18, 2020</p> <p>FFCRA lifts work and training requirements for the Supplemental Nutrition Assistance Program (SNAP) as well as provides state PHE declarations to enable additional SNAP services. It also provides coverage of COVID-19 diagnostics for all plan types. Additionally, it stipulates that personal respiratory protective devices are granted protection from certain liabilities. States may elect to cover testing services for uninsured people, and the bill provides states with a 6.2 percentage point FMAP boost if states agree to maintenance of eligibility (MOE) requirements for Medicaid beneficiaries throughout the duration of the PHE.</p>	Federal work and training requirements expire at the end of the month following the last PHE extension, and FMAP extensions end in the quarter in which the PHE ends. Other provisions listed expire with the PHE.
Coronavirus Aid, Relief, and Economic Security (CARES) Act	CARES Act	<p>Enacted: June 3, 2020</p> <p>The CARES Act expanded Other Transaction Authority (OTA) to HHS and to the Biomedical Advanced Research and Development Authority (BARDA). It also revised durable medical equipment (DME) payments and includes several provisions relating to COVID-19 vaccine and testing coverage.</p>	These provisions are effective until the end of the PHE.
Section 1135 Waivers	CARES Act	<p>Effective: March 1, 2020 Current End Date: April 16, 2022</p> <p>Section 1135 of the SSA allows the HHS Secretary to waive portions of the Act to ensure the continued provision of health care to individuals during an emergency period. The invocation of Section 1135 requires the existence of (1) an emergency declaration under the NEA or an emergency declaration under the Stafford Act and (2) a declared PHE under the PHSA. Additionally, when one of those two conditions is not met, Section 1135 authority is terminated.</p>	1135 waivers last for 60 days and are renewable for additional 60-day periods, as long as the emergency declaration conditions are met. 1135 waivers can be retroactive to March 1, 2020.
Section 1915(c) Appendix K Waivers	SSA	<p>Effective: January 27, 2020 Current End Date: October 16 2022*</p>	Six months after PHE ends.

Declaration/ Flexibility	Authority	Description	Expiration Timeline
		<p>Appendix K is a standalone appendix that allows emergency flexibilities pertaining to Home and Community Based Services (HCBS).</p> <p>*If a state received CMS approval for this extended timeline. For states that did not request this extension, the end date was January 26, 2021.</p>	
Section 1115 Demonstrations	SSA	<p>Effective: March 1, 2020 Current End Date: June 14, 2022</p> <p>Section 1115 of the SSA also affords the Secretary broad, but not unlimited, authority to approve a state or territory’s request to waive compliance with certain provisions of federal Medicaid law and authorize expenditures not otherwise permitted by law. To receive a section 1115 demonstration, states must submit a demonstration request and agree on Special Terms and Conditions. States that have a federally declared disaster are deemed to meet budget neutrality. States may be exempt from the normal public notice process in emergent situations provided they meet 42 CFR § 431.416(g)(2). Disaster-related demonstrations are retroactive to the date of the Secretary declared a PHE. A list of the 1115 waivers issued under the PHE may be found here.</p>	End of the PHE.
Section 1812(f) of the SSA	SSA	<p>This provision of the SSA allows Medicare to pay for skilled nursing facility (SNF) services without a three-day qualifying stay. CMS is also using 1812(f) authority to cover extended care services <i>without</i> the prerequisite that a beneficiary be experiencing a new bout of illness. These extended care services initiate 100 additional days of SNF benefits.</p>	This flexibility expires at the end of the PHE, or at the end of a relevant 100-day stay, whichever is sooner.

PHE FLEXIBILITIES BY HEALTH CARE PROGRAM

Declaration/ Flexibility	Authority	Description	Expiration Timeline
Medicare			
Telehealth			
HIPAA Flexibility for Telehealth Technology	CMS, HHS Office for Civil Rights (OCR) Discretion	HHS issued a <u>notification</u> of enforcement discretion to allow providers to use video and text-based applications without being subject to HIPAA violations.	End of the PHE.
Audio-Only Telehealth for Certain Services	CMS, CARES Act, SSA Sec. 1834(m)(1), PHSA Sec. 410.78 (b)(2)	This waiver allows for use of audio-only equipment to furnish telehealth services for audio-only telephone evaluation and management services as well as behavioral health counseling and educational services.	This provision will become permanent after the conclusion of the PHE.
Eligible Practitioners	CMS, CARES Act, SSA Sec. 1834 (m)(4) (E), PHSA Sec. 410.78(b)(2)	This waiver allows health care professionals who were previously ineligible to furnish and bill for Medicare telehealth services, including physical therapists, occupational therapists, speech language pathologists, and others, to receive payment for Medicare telehealth services.	This provision will become permanent after the conclusion of the PHE.
Practitioner Location	CMS, Section 1135 Waiver	CMS is temporarily waiving requirements that out-of-state practitioners must be licensed in the state where they practice.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Critical Access Hospitals	CMS, PHSA Sec. 485.616	With regard to hospitals and Critical Access Hospitals (CAHs), certain telehealth requirements are waived to allow telemedicine services to be furnished to a hospital's patients through an agreement with an off-site hospital.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Physician Visits in SNF/Nursing Facilities	CMS, PHSA Sec. 483.20(k)	This waiver allows physicians and non-physician practitioners to perform in-person visits for nursing home residents and allows visits to be conducted via telehealth options.	End of the PHE.
Removal of Geographic Restrictions	CMS, Consolidated Appropriations Act, 2021 (CAA) Sec. 123	Eligible telehealth individuals under Medicare are able to utilize telehealth for purposes of diagnosis, treatment, or evaluation of mental health disorders without geographic restrictions.	This provision will become permanent after the conclusion of the PHE.

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Prescribing Controlled Substances via Telehealth	CMS, Drug Enforcement Agency (DEA)	This waiver allows providers to prescribe controlled substances via telehealth without the need for an in-person medical evaluation.	These policies are effective beginning March 31, 2020, and will remain in effect for the duration of the PHE, unless DEA specifies an earlier date.
Cost-Sharing	HHS Office of Inspector General (OIG) authority	This waiver eliminates administrative sanctions for reducing or waiving cost-sharing obligations for telehealth services paid for by federal or state health care programs, such as Medicare and Medicaid.	End of the PHE.
Home Oxygen	CMS, Section 1135 Waiver	CMS — via interim final rule with comment (IFC) — has paused enforcement of the clinical indications for coverage of home oxygen therapy to allow for broader use of home oxygen during the PHE.	End of the PHE.
Hospitals, Psychiatric Hospitals, and Critical Access Hospitals, including Cancer Centers and Long-Term Care Hospitals (LTCHs)			
Emergency Medical Treatment & Labor Act	CMS, Section 1135 Waiver	This allows hospitals, psychiatric hospitals, and CAHs to screen patients at a location offsite from the hospital's campus to prevent the spread of COVID-19.	End of the PHE.
Reporting Requirements	CMS, Section 1135 Waiver	This waives the requirement that hospitals report patients in an intensive care unit whose death is caused by their disease — but who required certain restraints — no later than the close of business on the next business day.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Limiting Detailed Discharge Planning for Hospitals	CMS, Section 1135 Waiver	CMS waived requirements related to post-acute care services so as to expedite the discharge and movement of patients among care settings.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Medical Staff	CMS, Section 1135 Waiver	Under the PHE, physicians whose privileges will expire are allowed to continue practicing at hospitals and new physicians are able to practice before full medical staff/governing body review and approval to address workforce concerns related to COVID-19.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.

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Medical Records	CMS, PHSA Sec. 482.24 (a)-(c)	The agency waived requirements related to medical records to allow flexibility in completion of medical records within 30 days following discharge from a hospital.	End of the PHE.
Nursing Services	CMS, Section 1135 Waiver	Requirements that: (1) nursing staff develop and maintain a nursing care plan for each patient; and (2) hospitals have policies and procedures in place establishing which outpatient departments are not required to have a registered nurse present have been waived. These flexibilities apply to both hospitals and CAHs.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
CAH Staff Licensure	CMS, Section 1135 Waiver	The requirement that the staff of a CAH be licensed, certified, or registered in accordance with applicable federal, state, and local laws and regulations is waived.	End of state-declared emergency.
Temporary Expansion Locations	CMS, Section 1135 Waiver	Certain requirements under the Medicare conditions of participation and the provider-based department requirements were waived under the PHE to allow hospitals to establish and operate as part of the hospital any location meeting those conditions of participation for hospitals that continue to apply during the PHE.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
LTCH Site Neutral Payment Rate Provisions	CMS, CARES Act, SSA Sec. 1886(d) (1)	Certain site neutral payment rate provisions for LTCHs have been waived under the PHE.	End of the PHE.
Rural Health Clinics (RHCs), Federally Qualified Health Centers (FQHCs), and SNFs			
Temporary Expansion Locations	CMS, Section 1135 Waiver	CMS waived the requirement that RHCs and FQHCs be independently considered for Medicare approval if services are furnished in more than one permanent location.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
3-Day Prior Hospitalization	CMS, Section 1812(f)	The requirement for a 3-day prior hospitalization for coverage of a SNF stay is waived for those people who experience dislocations or are otherwise	End of the PHE.

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		affected by COVID-19. Additionally, this waiver authorizes renewed SNF coverage without first having to start a new benefit period for certain beneficiaries who recently exhausted their SNF benefits.	
Environment for Providers	CMS, Section 1135 Waiver	CMS waived requirements that require hospitals, CAHs, inpatient hospices, SNFs, and ICFs to maintain certain levels of safety and quality.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
General			
Appeal Filing Extension in FFS, MA, and Part D	CMS, Section 1135 Waiver	CMS is allowing Medicare Administrative Contractors (MACs) and Qualified Independent Contractors (QICs) in FFS, and Independent Review Entities (IREs) under MA and Part D to extend deadlines for filing an appeal. For MACs and QICs, MA and Part D sponsors can waive requests for timeliness requirements to adjudicate appeals.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
DMEPOS	CMS authority, PHSa Sec. 414.210	If durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) is destroyed, CMS allows MACs to waive replacement requirements.	End of the PHE.
DME Payments	CARES Act, SSA	The CARES Act maintains current Medicare DME payment rates for rural and non-contiguous areas. For other areas, payment rates are based on fee schedule amounts at 75 percent of the adjusted payment amounts and 25 percent of unadjusted fee schedule amounts, compared to non-PHE 100 percent of adjusted payment amount rates.	End of the PHE.
Provider Enrollment	CMS authority, PHSa Sec. 424.5	Authorities for provider include: authority to postpone revalidation; allowing providers to serve beneficiaries outside their states; expediting provider applications; allowing providers to terminate their opt-out status to increase their beneficiary caseload.	End of the PHE.
ESRD Facilities	CMS, PHSa Sec. 494	CMS is waiving requirements related to end stage renal disease (ESRD) training program audits, emergency preparedness, and equipment	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.

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		maintenance inspections. Additionally, CMS is allowing for the delay of some patient assessments and flexibilities around initiating care planning and monthly physician visits. CMS is also waiving requirements related to Special Purpose Renal Dialysis Facilities (SPRDF) to support their expanded designation, as well as expanding ESRD to nursing home residents, transferability of physician credentials and certain requirements for patient care technician (PTC) certification.	
Home Health Agencies	CMS, Section 1135 Waiver	CMS is allowing flexibilities around several home health agency (HHA) regulations. These include lessened restrictions around requests for anticipates payments (RAPs), reporting requirements, initial assessments, and on-site visits. Additionally, occupational therapists, physical therapists, and speech language pathologists are able to perform assessments for HHA patients. CMS is also waiving certain training requirements for home health aides and discharge information, as well as extending deadlines for clinical record requirements deadlines.	End of the first full quarter after the PHE ends.
Home Health Agencies as They Relate to Hospice	CMS, Section 1135 Waiver	CMS is waiving requirements for services that require a registered nurse to make onsite visits. CMS is also narrowing the scope of the quality assurance and performance improvement (QAPI) to concentrate on infection control issues.	End of the PHE.
Hospice	CMS, Section 1135 Waiver	Similar to HHA and HHA-hospice PHE changes, CMS is modifying some annual training requirements and supervision. CMS is also waiving a requirement that CMS provide certain non-core services, such as physical therapy, occupational therapy, and speech-language pathology.	End of the PHE.

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Ambulatory Surgical Centers	CMS, Section 1135 Waiver	CMS waives ASC requirements around reappraising medical staff privileges, as well as staffing requirements for the Hospitals Without Walls Program.	Section 1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Ambulance Services	CMS, Section 1135 Waiver, ARPA	CMS is modifying ground ambulance data collection system reporting requirements. CMS is also allowing for Medicare payments if ambulances treat a beneficiary in-place and do not transport the patient to a secondary location.	Data collection periods for ground ambulance data initially conducted in CY 2020 and CY 2021 can now select a continuous 12-month data collection in CY 2022. For treat-in-place regulations, the deadline to submit claims is May 5, 2022.
Community Mental Health Clinics	CMS, Section 1135 Waiver	CMS is providing flexibility for QAPI resources to be reworked and used in PHE-specific circumstances. CMS is also allowing Community Mental Health Clinics (CMHCs) to provide partial hospitalization services and waiving the requirement that CMHCs provide at least 40 percent of services to patients that are ineligible for Medicare benefits.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Coverage of the COVID-19 Vaccine Under Part B Without Cost-Sharing	CMS, CARES Act, SSA 1861(s)(10) (A)	Medicare Part B and MA are required to cover a beneficiaries COVID-19 vaccine and administration without cost-sharing or application of the annual Part B deductible.	Effective March 27, 2020, and applicable to FDA approved COVID-19 vaccines on the date it receives such approval.
Medicaid			
FMAP			
Enhanced FMAP	CMS, FFCRA, SSA Sec. 1905(b)	Qualifying states are eligible to receive an additional 6.2 percentage points of Medicaid FMAP through the end of the quarter in which the PHE ends. In order to qualify for this increased FMAP, states are required to maintain the enrollment of individuals who were previously enrolled in Medicaid on or after March 18, 2020, through the end of the month in which the PHE ends.	End of the quarter in which the PHE ends.

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100% FMAP for COVID Vaccines	CMS, ARPA, SSA Sec. 1905(a)(4)	ARPA provides an FMAP of 100 percent for amounts expended by a state for medical assistance for COVID-19 vaccines and their administration.	End of the first calendar quarter that begins at least one year after the end of the PHE.
COVID-19 Response Efforts			
Medicaid and CHIP Disaster Relief State Plan Amendments (SPA)	CMS, Medicaid and CHIP State Plan Authority, SSA	CMS is allowing states to revise policies and procedures in their Medicaid state plan related to eligibility, enrollment, benefits, premiums and cost sharing, and payments. Additionally, CMS is allowing states to submit CHIP SPAs that allow for temporary adjustments to the enrollment and redetermination processes during the PHE.	End of PHE (or an earlier approved date chosen by the state).
Coverage for the Optional COVID-19 Eligibility Group	CMS, ARPA, SSA Sec. 1902(a)(10)	Medicaid coverage provisions for vaccines and their administration include most eligibility groups with limited benefits.	End of the first calendar quarter that begins at least one year after the end of the PHE. However, upon the end of this period, states have the flexibility to cover vaccines for eligibility groups.
Required Coverage of COVID-19 Testing	CMS, ARPA, SSA Sec. 1905(b)	ARPA required Medicaid and CHIP programs, excluding Alternative Benefit Plans, to cover all FDA-authorized COVID-19 tests without cost sharing.	End of the first calendar quarter that begins at least one year after the end of the PHE.
Required Coverage of COVID-19 Vaccines	CMS, ARPA extended FFCRA beneficiary definition, SSA Sec. 1905(a)(4)	Coverage of COVID-19 vaccine administration is mandatory for most Medicaid beneficiaries, including children.	End of the first calendar quarter that begins at least one year after the end of the PHE.
Required Coverage of COVID-19 Treatments	CMS, FFCRA, SSA Sec. 1905(a)(4)	The ARPA modifies the 100 percent FMAP provision in the FFCRA by including treatments and therapies.	End of the first calendar quarter that begins at least one year after the end of the PHE.
COVID-19 Testing Clarification	CMS, CARES Act, Section 1135 Waiver	The CARES Act expands the definition of COVID-19 tests to allow Medicaid and CHIP beneficiaries to have access to in vitro diagnostics (IVD), in addition to other COVID-19 tests.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.

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Combined Medicare, Medicaid, CHIP, and/ or Medicare Advantage			
Advance Directives	CMS, Section 1135 Waiver	CMS is waiving requirements for the Medicaid, MA, and Medicare programs which require hospitals and CAHs to provide information about their advance directive policies to patients.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Training and Certification of Nurse Aides	CMS, Section 1135 Waiver	Requirements that a SNF and nursing facilities (NF) may not employ anyone for longer than four months unless they meet specified training and certification requirements have been waived under the PHE.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Intermediate Care Facility for Individuals with Intellectual Disabilities	CMS, Section 1135 Waiver	CMS is waiving certain requirements for Medicare and Medicaid facilities for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). These changes include staffing flexibilities surrounding the responsibilities designated for direct support staff and direct care staff. CMS also suspended requirements that beneficiaries have the opportunity to participate in group activities. Similar to other CMS flexibilities, the agency is also waiving some training requirements for staff.	1135 waivers can be retroactive to March 1, 2020, and can be reissued until the end of the PHE.
Other Programs			
U.S. Department of Agriculture (USDA)			
Food and Nutrition Assistance	FFCRA, ARPA, Food and Nutrition Act of 2008 Sec. 2011	Through FFCRA, and further modified by ARPA, USDA is granting access to the Pandemic electronic benefits transfer (P-EBT) program through the end of the PHE.	The P-EBT program is effective through the end of the PHE.
SNAP	CAA, ARPA, Food and Nutrition Act of 2008 Sec. 8(a)	Additionally, CAA mandated that USDA implement a 15 percent increase in Supplemental Nutrition Assistance Program (SNAP) benefits, which ARPA extended.	The SNAP increase was effective through September 30, 2021.