



CMCS Informational Bulletin

DATE: May 8, 2023

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SUBJECT: End of the COVID-19 Public Health Emergency (PHE) and the COVID-19 National Emergency and Implications for Medicaid and the Children’s Health Insurance Program (CHIP)

Background

On February 9, 2023, the Secretary of Health and Human Services (Secretary) announced that on May 11, 2023 he plans to let the COVID-19 PHE he declared pursuant to section 319 of the Public Health Service (PHS) Act expire.¹ The announcement of this end date aligned with the Administration’s previous commitments to give at least 60 days’ notice prior to the end of this COVID-19 PHE. As discussed below, end dates for certain COVID-19-related Medicaid and CHIP coverage and enhanced federal matching funds are tied to the end of this COVID-19 PHE. Throughout this document, we use the term “COVID-19 PHE” to refer to the Secretary-declared PHE for COVID-19 under section 319 of the PHS Act.

This Center for Medicaid & CHIP Services (CMCS) Informational Bulletin (CIB) describes the end dates of certain COVID-19-related Medicaid and CHIP coverage and enhanced federal funding if the COVID-19 PHE ends on May 11, 2023, as expected. As part of their response to the COVID-19 PHE, states adopted many temporary flexibilities to support providers and individuals enrolled in Medicaid and CHIP. CMCS has previously provided information through CMCS All-State Calls² and other resources³ on how states can continue many of these flexibilities beyond the COVID-19 PHE, if permissible. See the Appendix for key dates for expiration of Medicaid and CHIP COVID-19 requirements and flexibilities, including but not limited to coverage requirements under the American Rescue Plan Act of 2021 (ARP). CMCS continues to be available to provide states with technical assistance as they prepare to return to routine operations.

¹ <https://www.hhs.gov/about/news/2023/02/09/letter-us-governors-hhs-secretary-xavier-becerra-renewing-covid-19-public-health-emergency.html>.

² <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/cmcs-medicaid-and-chip-all-state-calls/index.html>

³ <https://www.medicaid.gov/state-resource-center/downloads/mac-learning-collaboratives/medicaid-chip-inventory.pdf>

On April 10, 2023, President Biden signed into law a joint resolution of Congress that ended the Presidentially declared COVID-19 National Emergency on that date.⁴ This emergency, which we refer to throughout this document as the COVID-19 National Emergency, is separate from the COVID-19 PHE declared by the Secretary. As discussed above, the COVID-19 PHE is expected to remain in effect until May 11, 2023, unless the Secretary ends the COVID-19 PHE on a different date (for example, if directed to do so by the President). Please see below for more information about the impact of the end of the COVID-19 National Emergency on Medicaid and CHIP.

CMCS reminds states that the end of the continuous enrollment condition for individuals enrolled in Medicaid is no longer linked to the end of the COVID-19 PHE and is also not impacted by the end of the COVID-19 National Emergency. Under the Families First Coronavirus Response Act (FFCRA), states claiming a temporary 6.2 percentage point increase in the Federal Medical Assistance Percentage (FMAP) were unable to terminate enrollment for most individuals enrolled in Medicaid as of or after March 18, 2020, as a condition of receiving the temporary FMAP increase. The Consolidated Appropriations Act, 2023 (CAA, 2023), signed into law on December 29, 2022, ended the continuous enrollment condition on March 31, 2023. As of April 1, 2023, states are permitted to terminate Medicaid enrollment for individuals for whom the state has completed a renewal and determined are no longer eligible during the state's unwinding period. For more information on the end of the continuous enrollment condition, please visit [Medicaid.gov/unwinding](https://www.medicaid.gov/unwinding) and see the recent State Health Official Letter, *Medicaid Continuous Enrollment Condition Changes, Conditions for Receiving the FFCRA Temporary FMAP Increase, Reporting Requirements, and Enforcement Provisions in the Consolidated Appropriations Act, 2023*.⁵ This CIB does not provide any additional information about the end of the continuous enrollment condition.

COVID-19-Related Medicaid and CHIP Coverage

ARP Section 9811 and Section 9821: Coverage of COVID-19 Vaccines, Vaccine Administration, Testing, and Treatment in Medicaid and CHIP

Since March 11, 2021, the ARP has required state Medicaid and separate CHIP programs to cover COVID-19 vaccines and their administration, testing for COVID-19, and treatments for COVID-19 without cost-sharing.⁶ Additionally, since March 11, 2021, state Medicaid and separate CHIP programs must cover, without cost-sharing, the treatment of a condition that may seriously complicate the treatment of COVID-19, if otherwise covered under the state plan (or a waiver of such plan), for eligible individuals who are diagnosed with or presumed to have COVID-19, during the period such an individual has (or is presumed to have) COVID-19.

Under the ARP, these coverage requirements end on the last day of the first calendar quarter that

⁴ <https://www.whitehouse.gov/briefing-room/legislation/2023/04/10/bill-signed-h-j-res-7/>

⁵ <https://www.medicaid.gov/federal-policy-guidance/downloads/sho23002.pdf>. For all CMCS unwinding resources, please visit <https://www.medicaid.gov/unwinding>.

⁶ Previous CMS guidance on Sections 9811 and 9821 of the ARP: <https://www.medicaid.gov/federal-policy-guidance/downloads/sho22002.pdf>, <https://www.medicaid.gov/state-resource-center/downloads/covid-19-vaccine-toolkit.pdf>, <https://www.medicaid.gov/federal-policy-guidance/downloads/sho102221.pdf>, <https://www.medicaid.gov/federal-policy-guidance/downloads/sho-21-004.pdf>, <https://www.medicaid.gov/federal-policy-guidance/downloads/sho-21-003.pdf>.

begins one year after the last day of the COVID-19 PHE. If the COVID-19 PHE ends as expected on May 11, 2023, this ARP coverage requirement will end on September 30, 2024.

ARP Section 9811 and Section 9821: Enhanced Federal Matching Funds for COVID-19 Vaccines and Vaccine Administration

The ARP authorizes a 100 percent FMAP for state expenditures for medical assistance for COVID-19 vaccines and their administration. This 100 percent FMAP ends on the last day of the first quarter that begins one year after the last day of the COVID-19 PHE. If the COVID-19 PHE ends on May 11, 2023, this 100 percent FMAP will end on September 30, 2024.

Optional COVID-19 Group for Uninsured Individuals

Section 6004 of the FFCRA provided states with the authority to provide coverage to a new optional COVID-19 Medicaid eligibility group (“optional COVID-19 group”) for uninsured individuals, and gave states a 100 percent federal match rate for their expenditures on medical assistance for this group and for their administrative costs related to providing medical assistance to this group. In order to be eligible for this group, an individual must be an “uninsured individual” as defined in section 1902(ss) of the Social Security Act. The FFCRA authorized states to provide coverage of COVID-19 testing (and related services) to this group, and the ARP broadened this group’s coverage to also include, effective March 11, 2021, COVID-19 vaccinations, testing, and treatment (including treatment of a condition that may seriously complicate the treatment of COVID-19, as described above).

As of the publication date of this CIB, 15 states and three territories have opted to provide coverage to the optional COVID-19 group.⁷ For those states and territories that have adopted the optional COVID-19 group, the coverage (and related federal matching funds) expire on the last day of the COVID-19 PHE, expected to be May 11, 2023.⁸

Telehealth Flexibilities

Telehealth flexibilities under Medicaid and CHIP are not tied to the COVID-19 PHE. The flexibility to cover Medicaid and CHIP services when they are delivered via telehealth was available prior to the COVID-19 PHE and will continue to be available after the COVID-19 PHE ends. CMCS encourages states to continue to cover Medicaid and CHIP services when they are delivered via telehealth.

States have a great deal of flexibility with respect to covering Medicaid and CHIP services provided via telehealth. Generally, a state does not need to submit a State plan amendment (SPA) to the Centers for Medicare & Medicaid Services (CMS) to describe when it will cover or pay for already-covered Medicaid services when they are delivered via telehealth, unless it wants to cover or pay for the services differently when the services are delivered via telehealth.⁹ States have the option to determine whether (or not) to cover Medicaid and CHIP services when they

⁷ Fifteen states have taken up the option: California, Colorado, Connecticut, Iowa, Illinois, Louisiana, Maine, Minnesota, North Carolina, New Hampshire, New Mexico, Nevada, South Carolina, Utah, and West Virginia. Three territories have taken up this option: the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands.

⁸ For more information on the optional COVID-19 group: <https://www.medicaid.gov/resources-for-states/downloads/ending-covrg-optnl-covid-grp-guidance.pdf>.

⁹ For more information on when a SPA might be necessary, see <https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf>.

are delivered via telehealth. For example, states have flexibility to determine what types of services are covered when delivered via telehealth, where in the state coverage of services delivered via telehealth is available, and which telehealth modalities may be used to deliver covered services.

To assist states with the continuation, adoption, or expansion of telehealth coverage and payment policies, CMCS has released the State Medicaid & CHIP Telehealth Toolkit¹⁰ and a supplement that identifies for states the policy topics that should be addressed in order to facilitate widespread adoption of telehealth.

The Implications of the End of the COVID-19 National Emergency for Section 1135

Waivers

CMS has the authority to temporarily modify or waive certain Medicaid and CHIP requirements under section 1135 of the Social Security Act when 1) the President declares a state of emergency under the Stafford Act or the National Emergencies Act, and 2) the Secretary also declares a public health emergency (PHE) under section 319 of the PHS Act. As discussed above, a joint resolution of Congress was signed into law by the President on April 10, 2023 that ended the COVID-19 National Emergency declared by the President, effective immediately. Again, the COVID-19 National Emergency is separate from the COVID-19 PHE, which is expected to remain in effect until May 11, 2023.

The end of the COVID-19 National Emergency on April 10, 2023 ended CMS's authority to issue new, prospective section 1135 waivers related to the COVID-19 pandemic. Any section 1135 waivers currently in effect for the COVID-19 pandemic and approved prior to April 10, 2023 remain in effect until the end date of the COVID-19 PHE, or earlier, as determined by CMS.

Since 2020, states submitting a Medicaid Disaster Relief SPA for COVID-19 have been able to request section 1135 waivers or modifications of the federal SPA effective date, public notice, and Tribal consultation requirements applicable to the SPA submission. The end of the COVID-19 National Emergency has the following implications for states submitting Medicaid Disaster Relief SPAs related to the COVID-19 pandemic:

- Section 1135 waivers to waive or modify SPA submission requirements apply to the submission date of the Medicaid Disaster Relief SPA. Therefore, the section 1135 waiver authority to waive or modify SPA submission requirements for Medicaid Disaster Relief SPAs submitted on or after April 10, 2023 is no longer available.
- If a state requested a section 1135 waiver or modification of these SPA submission requirements in connection with a Medicaid Disaster Relief SPA that was submitted prior to April 10, 2023, CMS can still approve the section 1135 request, because the section 1135 waiver or modification would relate to a date prior to April 10, 2023.

¹⁰ <https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf> and <https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit-supplement1.pdf>.

- However, any Medicaid Disaster Relief SPAs related to the COVID-19 pandemic submitted on or after April 10, 2023 must comply with the usual SPA effective date, public notice, and Tribal consultation requirements, because a section 1135 waiver or modification of those SPA submission requirements is no longer available for dates on or after April 10, 2023.
- This change to the availability of section 1135 waivers related to Medicaid Disaster Relief SPA submissions does not affect the end date for these SPAs. Medicaid Disaster Relief SPAs related to the COVID-19 pandemic can remain in effect until the end of the COVID-19 PHE, unless the state specifically tied the end date of the SPA to the end of the COVID-19 National Emergency or otherwise specified an earlier end date.

Closing

CMCS encourages states to review their policies, systems, and procedures to ensure compliance with changes expected as a result of the end of the COVID-19 PHE. As CMCS has recommended in prior guidance,¹¹ states should also communicate with providers and enrollees where appropriate to advise them about the end of flexibilities. As states assess flexibilities adopted during the COVID-19 PHE, CMCS continues to be available to provide states with technical assistance as they prepare for the end of the COVID-19 PHE. For any questions or additional technical assistance, states may contact their CMCS State Lead.

¹¹ State Health Official Letter: Planning for the Resumption of Normal State Medicaid, Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Operations Upon Conclusion of the COVID-19 Public Health Emergency, December, 22, 2020: <https://www.medicaid.gov/federal-policy-guidance/downloads/sho20004.pdf>

Appendix

Key Dates for Expiration of Medicaid and CHIP COVID-19 Flexibilities and Requirements

Each temporary flexibility adopted by states to respond to the COVID-19 PHE is scheduled to sunset either upon expiration of the COVID-19 PHE or another specified date. Certain COVID-19 coverage requirements are also temporary. The expiration dates for various flexibilities and requirements are provided in the table below.

For more information about Medicaid and CHIP flexibilities and requirements and the end of the COVID-19 PHE, please see the February 2023 All-State Call Presentation “Preparing to Resume to Normal Operations: End of PHE Impact on Medicaid and CHIP Flexibilities.”¹²

Authority/Provision		Expiration Date¹³
1	Medicaid Disaster State Plan Amendment (SPA)	<ul style="list-style-type: none"> Expires at the end of the COVID-19 PHE (May 11, 2023) or any earlier approved date elected by state.
2	CHIP Disaster SPA	<ul style="list-style-type: none"> COVID-19 PHE SPA: Expires at the end of the COVID-19 PHE (May 11, 2023). Evergreen Disaster SPA: Expires the later of the state-declared emergency or the end of the COVID-19 PHE (May 11, 2023), or as otherwise specified in the SPA. Both SPA types may also expire at any earlier date, at state discretion.
3	Home and Community-Based Services (HCBS) Appendix K/ Attachment K	<ul style="list-style-type: none"> Expires no later than six months after the expiration of the COVID-19 PHE (November 11, 2023). This could be an earlier date if requested by the state and approved by CMCS.
4	Medicaid & CHIP 1135 Waivers	<ul style="list-style-type: none"> Expires at the end of the COVID-19 PHE (May 11, 2023).
5	Section 1115 COVID-19 Demonstration	<ul style="list-style-type: none"> Expires no later than 60 days after the end of the COVID-19 PHE (July 11, 2023) unless otherwise noted in section 1115 demonstration approval documents.
6	Optional COVID-19 Group	<ul style="list-style-type: none"> Authority to provide coverage to this group expires at the end of the COVID-19 PHE (May 11, 2023). No federal financial participation is available for any state expenditure associated with medical assistance services or administrative costs for this group, including coverage of COVID-19 vaccinations, testing, and treatment, after the COVID-19 PHE ends.

¹² <https://www.medicaid.gov/resources-for-states/downloads/covid19allstatecall02142023.pdf>

¹³ Expiration dates are based on the expected May 11, 2023 expiration of the COVID-19 PHE.

Authority/Provision		Expiration Date¹³
7	ARP Mandatory Medicaid & CHIP Coverage of COVID-19 Vaccinations, Testing, and Treatment Without Cost Sharing	<ul style="list-style-type: none"> Ends on the last day of the first calendar quarter that begins one year after the last day of the COVID-19 PHE (September 30, 2024).
8	Increased FMAP and eFMAP for Medicaid & CHIP Coverage for COVID-19 Vaccines and Vaccine Administration	<ul style="list-style-type: none"> Ends on the last day of the first quarter that begins one year after the last day of the COVID-19 PHE (September 30, 2024).
9	Medicaid and CHIP Disaster Relief MAGI-Based Verification Plan Addendum	<ul style="list-style-type: none"> Ends on the date specified in the Medicaid and CHIP Disaster Relief MAGI-Based Verification Plan Addendum in each applicable state.