

PHE Extended Until at Least April 2023, Allowing Key Regulatory Flexibilities Tied to PHE to Continue

On Jan. 11, the Biden administration announced it was again extending the federal public health emergency (PHE) for another 90 days, until April 11, 2023.

The federal government has authorized this public health emergency for 90-day periods going back to Jan. 31, 2020. The PHE has been used to authorize both blanket and individual waivers that have allowed for crucial regulatory flexibilities, including:

- [Telehealth](#)
- [Hospital at Home](#)
- [CAH waivers](#), such as lifting the 96 hour average length of stay and 25 inpatient bed cap
- EMTALA waivers

As covered in a [recent edition of *The Valued Voice*](#), Congress passed omnibus legislation at the end of 2022 that extended Telehealth and Acute Hospital Care at Home waivers through the end of 2024, meaning those Medicare flexibilities are no longer dependent upon the public health emergency. However, other key waivers such as the [CAH 96-hour rule](#) and nursing home 3-day rule continue to depend on the PHE being renewed. Given this dynamic, WHA is continuing to [educate Wisconsin's congressional delegation](#) on the need to provide a similar glide path for these lesser known but similarly [important waivers](#) that have led to significant care innovations during COVID, yet did not get extended in the omnibus legislation.

The omnibus legislation also impacted Medicaid eligibility policy that had previously been tied to the PHE; it ended a requirement that states refrain from disenrolling residents that become ineligible for Medicaid so long as the PHE continues. That legislation set April 1, 2023, as the date for when states must begin Medicaid redeterminations, which will result in residents being disenrolled if they no longer meet eligibility criteria. Along with that, states will gradually see their bonus federal matching (FMAP) rate that has been tied to the PHE gradually decrease as follows:

- From 6.2% to 5% on April 1, 2023
- From 5% to 2.5% on July 1, 2023
- From 2.5% to 1.5% on October 1, 2023
- Back to normal on January 1, 2024

According to [Axios](#), a decision has not been made on whether this current PHE extension will be the last one, and the administration will continue to abide by their promise to provide a 60-day notice before allowing the PHE to expire. This means we should know by mid-February whether the PHE will again be extended. House Republicans will be using their new powers in the majority to [investigate the country's COVID response](#), and some have speculated this may create pressure on the Biden administration to end the public health emergency.

Contact WHA Vice President of Federal and State Relations [Jon Hoelter](#) with questions.

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