

Biden Administration Announces PHE will End May 11

On Jan. 30, the Biden administration [announced](#) it would be officially ending the federal public health emergency (PHE) on May 11.

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

While Congress has fortunately acted to extend some of these flexibilities, others are expected to end absent further announcements by CMS or actions by Congress. Below are a number of impacts WHA is tracking.

- **Medicare Telehealth & Hospital at Home Flexibilities already extended through 2024** – Due to [Congress passing and President Biden signing legislation last December](#), two key flexibilities that WHA made advocacy priorities and that will continue after the PHE ends are Medicare telehealth coverage and the Acute Hospital Care at Home program. These will continue through at least the end of 2024.
- **Medicare Blanket Waiver Flexibilities slated to end** – The [Medicare blanket waivers authorized by CMS](#) were contingent on the PHE and without further action by Congress and/or announcements by CMS, these flexibilities are expected to end. WHA was out in Washington DC in early December [urging Congress to extend](#) a number of these flexibilities that members have told us are critical while hospitals continue to experience extreme workforce shortages. While the telehealth and hospital at home flexibilities have been extended we are still advocating for an extension of the [96-hour CAH rule](#) and [3-day prior hospitalization](#) for SNF coverage.
- **Non-blanket waivers and other flexibilities** – In addition to the blanket waivers that did not require specific approval, CMS and Wisconsin Department of Health Services (DHS) approved waivers and provided other flexibilities to individual hospitals during the PHE.
 - Hospitals may wish to review any individual waivers or flexibilities they have been granted to understand whether they are tied to the PHE.
 - WHA asked the Wisconsin DHS Division of Quality Assurance (DQA) for more information about the PHE-related flexibilities and other parts of their unwinding process. DQA has responded that they will soon be developing communication/guidance related to the memos and flexibilities that will no longer be in effect after the PHE ends.

In addition to the flexibilities discussed above, there are additional provisions that have at one point in time been tied to the PHE, but are no longer. These include:

- **Medicaid Enrollment and Federal Matching Funds** – In the aforementioned December 2022 omnibus legislation, Congress decoupled Medicaid continuous enrollment and enhanced federal match rates from the PHE. Continuous enrollment is set to end on March 31, 2023, and the enhanced federal Medicaid match the state receives to fund this will phase down through December 2023. DHS has been working on its plans for re-processing Medicaid eligibility. This will happen over the course of 12 months, with the first renewals expected to be due in June 2023.
- **Most Wisconsin 2021 Act 10 licenses are *not* affected.** It's important to remember that the 2021 Act 10 licensure process which allows health care practitioners in good standing from other states to begin practicing in Wisconsin while DSPS processes their regular license is a permanent statutory change not contingent on the PHE. Only those practitioners who have NOT applied for a Wisconsin license will be affected by changes to the federal emergency declaration.

CMS maintains a [hospital fact sheet on its website](#) which includes more information on waivers, coverage, Medicare payments, and other policies that may be impacted by the ending of the PHE. WHA will continue to be in close contact with federal and state officials to pass along more information about the unwinding of the PHE as information becomes available.

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

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