



SPECIAL REPORT

CMS UNWINDS WAIVERS AS THE COVID-19 PHE COMES TO AN END

MAY 10, 2023

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Effective May 11, 2023, Centers for Medicare & Medicaid Services (CMS) will terminate Section 1135 emergency waivers for healthcare providers, as the nation marks the end of the COVID-19 Public Health Emergency (PHE).

IN DEPTH

At the onset of the COVID-19 PHE, CMS was permitted to issue several temporary emergency statutory and regulatory waivers to help providers appropriately respond to the pandemic. On May 1, 2023, the Secretary released a [memo](#) confirming that upon termination of the PHE on May 11, 2023, most all of the Section 1135 and related waivers enacted during the PHE would also terminate. This announcement also contained short summaries of the expirations of emergency waivers issued during the PHE related to long-term care (LTC) and acute and continuing care (ACC) providers. Certain regulations and policies will be modified to correspond with the end of the PHE. Others, such as the acute hospital and home initiative and telehealth flexibilities, have been extended to survive the end of the PHE and remain effective until December 31, 2023, or the dates otherwise mentioned. All affected providers and facilities are expected to comply with the new requirements according to the timeframes outlined by CMS.

CMS also highlighted a few areas in which it plans to use enforcement discretion to effectively extend regulatory flexibilities. Updated charts below summarize key waivers and the changes that take place at the end of the PHE on May 11, 2023.

ENFORCEMENT DISCRETION

CMS identified a selection of the updated waivers and flexibilities as subject to CMS enforcement discretion.

- CMS previously published an interim final rule with comment period (IFC) requiring all LTC facilities to report COVID-19 information using the Centers for Disease Control and Prevention

(CDC) National Healthcare Safety Network (NHSN). The IFC included a requirement to inform residents, representatives and families following occurrence of a single confirmed infection or three or more residents or staff with new symptoms. This reporting requirement is set to terminate December 31, 2023. CMS is concerned that the effort to continue reporting outweighs the utility of the reports being made. CMS stated that it will exercise enforcement discretion and will not expect providers to meet the requirements at 42 CFR 483.80(g)(3), which require reporting to residents, representatives and families by 5 pm the next calendar day following the occurrence. All other reporting requirements described in the IFC remain in effect until December 31, 2024.

- CMS generally stated that it will continue to utilize its enforcement discretion related to stakeholder concerns about ongoing staffing challenges during and after the PHE. CMS will use enforcement discretion on a case-by-case basis for circumstances beyond providers' or suppliers' control according to the timeframes of each waiver outlined in the notice.

WAIVER CHART AND CURRENT STATUS

All LTC and ACC Providers/Suppliers

ISSUE	BACKGROUND	STATUS
Staff Vaccination Requirements	On November 5, 2021, CMS issued an IFC (CMS-3415-IFC) requiring Medicare- and Medicaid-certified providers and suppliers to ensure that their staff were fully vaccinated for COVID-19 (<i>i.e.</i> , obtain the primary vaccination series).	<p>CMS will soon end the requirement that covered providers and suppliers establish policies and procedures for staff vaccination.</p> <p>As of May 10, 2023, a modified rule is pending with the federal Office of Management and Budget (OMB) which is expected to provide updated guidance on vaccination requirements for covered facilities.</p>
Emergency Preparedness	<p>CMS regulations for emergency preparedness require providers/suppliers to conduct exercises to test their emergency preparedness plan to ensure that it works and that staff are trained appropriately about their roles and the provider/supplier's processes.</p> <p>The exemption only applies to the next required full-scale exercise (not the exercise of choice), based on the 12-month exercise cycle. The cycle is determined by the provider/supplier (<i>e.g.</i>, calendar, fiscal or another 12-month timeframe). The exemption only applies when a provider/supplier activates its emergency preparedness program for an emergency event.</p>	<p>Providers/suppliers are expected to return to normal operating status and comply with the regulatory requirements for emergency preparedness at the conclusion of the PHE.</p> <p>Inpatient providers and suppliers¹: The provider/supplier must conduct a full-scale exercise within its annual cycle for 2023 and an exercise of choice.</p> <p>Outpatient providers²: The provider/supplier must conduct either a full-scale exercise or an exercise of choice within its annual cycle for 2023, if scheduled to conduct the full-scale exercise within 2023. The provider/supplier must conduct the exercise of choice, if scheduled during the annual cycle for 2023, and resume the full-scale exercise requirement in 2024.</p>

¹ Inpatient providers and suppliers include inpatient hospice facilities, psychiatric residential treatment facilities (PRTFs), hospitals, LTC facilities, intermediate care facilities for individuals with intellectual disabilities (ICFs/IIDs), and critical access hospitals (CAHs).

² Outpatient providers and suppliers include ambulatory surgical centers (ASCs), freestanding/home-based hospice, Program for the All-Inclusive Care for the Elderly (PACE), home health agencies (HHAs), comprehensive outpatient rehabilitation facilities (CORFs), organizations (which include clinics, rehabilitation agencies, and public health agencies as providers of outpatient physical therapy and speech-language pathology services), community mental health clinics (CMHCs), organ procurement organizations (OPOs), rural health clinics (RHCs), federally qualified health centers (FQHCs), and end-stage renal disease (ESRD) facilities.

Long Term Care Facilities (Skilled Nursing Facilities (SNFs) and/or Nursing Facilities (NFs))

ISSUE	BACKGROUND	STATUS
Three-Day Prior Hospitalization	CMS effectively waived the Medicare Part A skilled nursing facility (SNF) coverage requirement that a Medicare beneficiary must have a three-day qualifying hospital stay to qualify for a covered Part A SNF stay. CMS also granted certain beneficiaries who exhausted their SNF benefits a one-time renewal of SNF Part A coverage, beginning a new benefit period, without first having the 60-day wellness period that must typically occur before a beneficiary can obtain a new benefit period.	These waivers will terminate immediately with the expiration of the COVID-19 PHE. This means that all new SNF stays beginning on or after May 12, 2023, will require a qualifying hospital stay before Medicare coverage kicks in. For any new benefit period that begins on or after May 12, 2023, the beneficiary will need to have completed a 60-day wellness period.
Alcohol-Based Hand-Rub (ABHR) Dispensers	CMS waived the requirement for ABHR dispensers for SNFs and nursing facilities (NFs) during the PHE because of staff and others' sudden increased need for and use of ABHR in infection control.	The waiver of this requirement ends with the conclusion of the PHE.
Preadmission Screening and Annual Resident Review (PASARR)	CMS waived this requirement, effectively allowing nursing homes to admit new residents who have not received Level I or Level II Preadmission Screening.	The waiver of this requirement ends with the conclusion of the PHE.
Resident Roommates and Grouping	CMS waived these requirements solely for the purposes of grouping or cohorting residents with respiratory illness symptoms and/or residents with a confirmed diagnosis of COVID-19 and separating them from residents who are asymptomatic or tested negative for COVID-19.	The waiver of this requirement ends with the conclusion of the PHE.
Resident Transfer and Discharge	CMS waived requirements for facilities to provide advance notification of options relating to transfer/discharge to another facility and the written notice of transfer or discharge to be provided before the transfer or discharge.	The waiver of this requirement ends with the conclusion of the PHE.
Nurse Aide Training Competency and Evaluation Programs (NATCEP)	CMS waived the requirements that SNFs and NFs may not employ anyone for longer than four months unless the employee meets specified training and certification requirements. Although CMS terminated this blanket waiver in April 2022, individual states and facilities could apply for a separate time-limited waiver of these requirements for instances where the volume of nurse aides that must complete a state-approved NATCEP exceeded the availability of approved training and testing programs.	All individual waivers granted to states and individual facilities will terminate at the conclusion of the PHE, unless a facility or state has been granted a waiver that expires prior to the end of PHE. Uncertified nurse aides working in a LTC facility covered by a waiver granted to a state or individual facility will have four months from the date the PHE ends (or from the termination date of the facility's or state's waiver, if earlier) to complete a state approved NATCEP program. This includes LTC facilities that were granted, or are located in states that were granted, an extension of the waiver after October 6, 2022.

Requirements for Reporting Related to COVID-19	CMS requires all LTC facilities to report COVID-19 information using the CDC NHSN. Facilities are also required to inform the residents and their representatives and families following the occurrence of either a single confirmed infection of COVID-19 or three or more residents or staff with new onset of symptoms.	<p>This requirement to report information was extended through a final rule (CMS-1747-F) and is set to terminate on December 31, 2024, with the exception of the requirements at § 483.80(g)(1)(viii). This exception includes electronically reporting information about the COVID-19 vaccine status of resident and staff, including total numbers of residents and staff, number of residents and staff vaccinated, numbers of each dose of COVID-19 vaccine received, and COVID-19 vaccination adverse events in a standardized format set by the Secretary. This exception will continue to be in effect as a requirement to support national efforts to control the spread of COVID-19.</p> <p>However, in response to feedback and publicly available data, CMS is exercising enforcement discretion and will not expect providers to meet these requirements at this time. All other reporting requirements referenced here remain in effect until December 31, 2024.</p>
Requirements for Reporting Related to COVID-19	CMS is requiring facilities to report the COVID-19 vaccination status of residents and staff through NHSN.	This requirement for reporting the COVID-19 vaccine status of residents and staff through NHSN is permanent and will continue indefinitely unless additional regulatory action is taken.
Requirements for Educating and Offering Residents and Staff the COVID-19 Vaccine	CMS issued an IFC on May 21, 2021, that required all LTC facilities to educate residents and staff on the COVID-19 vaccine (including any additional doses) and offer to help them get vaccinated.	Medicare IFCs expire three years after issuance unless the Secretary determines an earlier end date. Therefore, this requirement will remain in effect until May 21, 2024, unless additional regulatory action is taken.
Requirements for COVID-19 Testing	CMS requires LTC facilities to perform routine testing of residents and staff for COVID-19 infection.	This testing requirement will expire with the end of the PHE.
Focused Infection Control (FIC) Surveys	In QSO-20-31, all states are required to conduct FIC surveys in 20% of their nursing homes in fiscal year 2023.	States are not required to conduct additional FIC surveys in fiscal year 2024. CMS will continue to make the FIC survey available for states to use at their discretion (e.g., to conduct complaint surveys when concerns related to COVID-19 infection control arise).

Acute and Continuing Care (ACC) Provider Flexibilities

ISSUE	BACKGROUND	STATUS
Ambulatory Surgical Centers		
ASCs	CMS allowed currently enrolled ASCs to temporarily enroll as hospitals and to provide hospital services to help address the urgent need to increase hospital capacity to take care of patients. Other interested entities, such as state-licensed independent freestanding emergency department (IFED), could also pursue temporary enrollment as a hospital during the PHE. As of December 1, 2021, no new ASC or IFED requests to temporarily enroll as hospitals have been accepted.	ASCs must decide either to meet the certification standards for hospitals at 42 CFR part 482³ or return to ASC status when the PHE ends.⁴ If they choose to return to ASC status, they can only be paid under the ASC payment system for services on the ASC Covered Procedures List. When the PHE ends, the temporary Medicare IFEDs can no longer bill Medicare for services, as their temporary Medicare certification will end.
ASCs	CMS waived the requirement that medical staff privileges must be periodically reappraised and the scope of procedures performed in the ASC must be periodically reviewed	The waiver of this requirement ends with the conclusion of the PHE.
Community Mental Health Centers		
CMHCs	CMS provided flexibility for CMHCs to use their Quality Assessment and Performance Improvement (QAPI) resources to focus on challenges and opportunities for improvement related to the PHE by waiving the specific detailed requirements for the QAPI program's organization and content.	The waiver of these requirements ends with the conclusion of the PHE.
CMHCs	CMS waived the specific requirement that prohibits CMHCs from providing partial hospitalization services and other CMHC services in an individual's home so that clients could safely shelter in place during the PHE while continuing to receive needed care and services from the CMHC.	The waiver of this requirement ends upon the conclusion of the PHE.

³ Conversion to Hospital: If the ASC wishes to participate as a hospital, it must undergo the hospital enrollment process by submitting a form CMS-855A to begin the process of enrollment and initial certification as a hospital on or before the conclusion of the PHE (May 11, 2023). An initial certification hospital survey, either done by the State Agency (SA) or Accreditation Organization (AO), will be conducted to determine compliance with all applicable hospital Conditions of Participation (CoPs) before CMS issues a final determination letter for Medicare participation.

⁴ Voluntary Termination of ASC's Temporary Hospital Status: The temporarily enrolled hospital must submit a notification of intent to convert back to an ASC to the applicable CMS Survey and Operations Group (SOG) location on or before the conclusion on the PHE (May 11, 2023) via email or mailed letter. The notification should include the temporary hospital's and ASC's legal business name, tax identification number, national provider identifier, provider transaction access number and the requested deactivation date of the hospital's temporary billing privileges (which must be by or before May 11, 2023). Once the CMS SOG location receives the notification from the temporary hospital of its desire to convert back to an ASC, the location will terminate the temporary hospital CMS certification number (CCN) and send a tie-out notice to the applicable Medicare Administrative Contractor (MAC). The MAC will deactivate the temporary hospital billing privileges and reinstate the original ASC billing privileges. The MAC will notify the ASC when its billing privileges have been restored. However, the ASC does not need to wait for this notification from the MAC to resume normal ASC operations. The ASC must come back into compliance immediately with all applicable ASC federal participation requirements, including the conditions for coverage. ASCs may refer to COVID-19 Frequently Asked Questions on Medicare Fee-for-Service Billing (cms.gov) for more information on claims processing after the PHE ends.

CMHCs	CMS waived the requirement that a CMHC provide at least 40% of its items and services to individuals who are not eligible for Medicare benefits.	The waiver of this requirement ends upon the conclusion of the PHE.
End Stage Renal Disease Facilities		
ESRD Facilities	CMS waived the requirement related to the condition on Water & Dialysate Quality; specifically, on-time periodic audits for operators of the water/dialysate equipment are waived to allow for flexibilities.	The waiver of this requirement ends upon the conclusion of the PHE.
ESRD Facilities	CMS waived the requirements for ESRD facilities to demonstrate as part of their Emergency Preparedness Training and Testing Program. CMS also waived the requirement for maintenance of CPR certification during the COVID-19 emergency because of the limited availability of CPR classes.	The waiver of these requirements ends with the conclusion of the PHE.
ESRD Facilities	CMS waived the following requirements related to the frequency of assessments for patients admitted to the dialysis facility: An initial comprehensive assessment must be conducted on all new patients (that is, all admissions to a dialysis facility), within the latter of 30 calendar days or 13 outpatient hemodialysis sessions beginning with the first outpatient dialysis session, and a follow-up comprehensive reassessment must occur within three months after the completion of the initial assessment to provide information to adjust the patient's plan of care.	The waiver of these requirements ends with the conclusion of the PHE.
ESRD Facilities	CMS modified the following two requirements related to care planning, specifically: requiring that the dialysis facility implement the initial plan of care within the latter of 30 calendar days after admission to the dialysis facility or 13 outpatient hemodialysis sessions beginning with the first outpatient dialysis session, and requiring the ESRD dialysis facility to ensure that all dialysis patients are seen by a physician, nurse practitioner, clinical nurse specialist or physician's assistant providing ESRD care at least monthly, and periodically while the hemodialysis patient is receiving in-facility dialysis.	The modification and waiver of these requirements end with the conclusion of the PHE.
ESRD Facilities	CMS waived the requirement for periodic monitoring of the patient's home adaptation, including visits to the patient's home by facility personnel.	The waiver of this requirement ends with the conclusion of the PHE.

ESRD Facilities	CMS authorized the establishment of special purpose renal dialysis facilities without requiring normal determination regarding lack of access to care as this standard was met during the period of the national emergency.	The waiver of this requirement ends upon the conclusion of the PHE.
ESRD Facilities	CMS modified the requirement for newly employed dialysis patient care technicians to obtain certification under a state certification program or a national commercially available certification program within 18 months of being hired as a dialysis patient care technician.	The waiver of this requirement ends upon the conclusion of the PHE.
ESRD Facilities	CMS waived the requirement that all medical staff appointments and credentialing be in accordance with state law, including for attending physicians, physician assistants, nurse practitioners and clinical nurse specialists.	The waiver of this requirement ends upon the conclusion of the PHE.
ESRD Facilities	CMS waived the ESRD requirements for dialysis facilities to provide services directly on their main premises or on other premises that are contiguous with the main premises, allowing dialysis facilities to provide services to their patients in nursing homes, LTC facilities, assisted living facilities and similar types of facilities.	The waiver of these requirements ends upon the conclusion of the PHE.
Home Health Agencies		
HHAs	CMS waived requirements to allow HHAs to perform Medicare-covered initial assessments and determine patients' homebound status remotely or by record review.	The waiver of these requirements ends upon the conclusion of the PHE.
HHAs	CMS waived the requirement that rehabilitation skilled professionals may only perform the initial and comprehensive assessment when only therapy services are ordered. This temporary blanket modification allowed any rehabilitation professional (physical therapist, occupational therapist or speech language pathologist) to perform the initial and comprehensive assessment for all patients receiving therapy services as part of the plan of care, to the extent permitted under state law, regardless of whether the service establishes eligibility for the patient to be receiving home care.	CMS finalized changes to permanently allow occupational therapists to complete the initial and comprehensive assessments for patients.
HHAs	CMS waived the requirement to provide detailed information regarding discharge planning to patients and their caregivers or the patient's representative in selecting a post-acute care provider, by using and sharing data that includes, but is not limited to, (another) HHA, SNF, inpatient rehabilitation facility (IRF) and	The waiver of this requirement ends upon the conclusion of the PHE.

	LTC hospital quality measures and resource use measures.	
HHAs	CMS waived the requirements for a nurse to conduct an onsite visit every two weeks.	The waiver of this requirement ends upon the conclusion of the PHE.⁵
HHAs	CMS extended the deadline for completion of the requirement for HHAs to provide a patient with a copy of their medical record at no cost during the next visit or within four business days (when requested by the patient).	The extension ends with the conclusion of the PHE.
HHAs	CMS provided relief to HHAs on the timeframes related to OASIS transmission by extending the five-day completion requirement for the comprehensive assessment to 30 days, and by waiving the 30-day OASIS submission requirement.	This relief ends with the conclusion of the PHE.
Hospice		
Hospice	CMS waived certain requirements related to the timeframes for updating the comprehensive assessments of patients.	The waiver of this requirement ends with the conclusion of the PHE.
Hospice	CMS waived the requirement that a hospice aide be evaluated by observation of the aide's performance of certain tasks with a patient.	As a part of the FY 2022 Hospice Wage Index and Payment Rate Update Final Rule, CMS finalized the hospice aide requirements to allow use of a pseudo-patient for conducting hospice aide competency evaluations. CMS also finalized the hospice aide supervision requirements to address situations when deficient practice is noted and remediation is needed for both deficient and related skills.
Hospice	CMS waived the requirement for hospices to provide certain non-core hospice services for physical therapy, occupational therapy and speech language pathology.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospice	CMS waived the requirement for hospices to annually assess the skills and competence of all individuals furnishing care and provide in-service training and education programs where required.	Selected hospice staff must complete training and have their competency evaluated by the end of the first full quarter after the declaration of the PHE concludes. Surveyor determinations of a provider's compliance for this requirement will begin at the end of the first full quarter after the conclusion of the PHE (September 30, 2023).

⁵ As part of the CY 2022 Home Health Prospective Payment System Final Rule (86 FR 62240 (November 9, 2021)), CMS finalized the provision for aide supervision for patients receiving skilled care every 14 days to now allow for one virtual visit per 60-day episode per patient and only in rare circumstances. For patients receiving nonskilled care, the registered nurse must make an onsite, in-person visit every 60 days to assess the quality of care and services provided by the home health aide and to ensure that services meet the patient's needs; semi-annually, the nurse must make a supervisory direct observation visit for each patient to which the aide is providing services.

Hospice	CMS waived the requirement that hospices must use volunteers (at least 5% of total patient care hours of all paid hospice employees).	Surveyor determinations of a provider's/supplier's compliance with this requirement will begin at the end of the calendar year in which the PHE ends (December 31, 2023).
HHA/Hospice		
HHA/Hospice	CMS waived the requirements for hospices and HHAs to develop, implement, evaluate and maintain an effective, ongoing hospice/HHA-wide, data-driven QAPI program.	The waiver of these requirements ends upon the conclusion of the PHE.
HHA/Hospice	CMS waived the requirement for hospices and HHAs that a registered nurse, or in the case of an HHA a registered nurse or other appropriate skilled professional (physical therapist/occupational therapist, speech language pathologist), make an annual onsite supervisory visit (direct observation) for each aide that provides services on behalf of the agency.	Surveyor determinations of a provider's/supplier's compliance with this requirement will begin 60 days after the conclusion of the PHE (July 11, 2023).
HHA/Hospice	CMS waived the requirement that HHAs and hospices ensure that each aide receives 12 hours of in-service training in a 12-month period.	Surveyor determinations of a provider's/supplier's compliance with this requirement will begin at the end of the calendar year in which the PHE ends (December 31, 2023).
Hospitals		
Hospitals	CMS established the acute hospital care at home initiative by waiving the Medicare Hospital CoPs and suspending the requirement for nursing services to be provided on premises 24 hours a day, seven days a week, and for the immediate availability of a registered nurse for care of any patient. Additional waivers and flexibilities were also extended to individual hospitals that submitted an application, met certain criteria and agreed to submit required data.	Section 4141 of the Consolidated Appropriations Act (CAA), 2023, included an extension of the waivers and flexibilities associated with the Acute Hospital at Home initiative to allow it to continue through December 31, 2024. Explicit criteria and data collection requirements were established as part of this extension.
Hospitals/CAHs/ASCs		
Hospitals/CAHs/ASCs	CMS waived requirements that a certified registered nurse anesthetist (CRNA) is under the supervision of a physician	The waiver of these requirements ends upon the conclusion of the PHE.⁶

⁶ The provisions for ASCs, hospitals, and CAHs at 42 CFR 416.42(c), 42 CFR 482.52(c), and 42 CFR 485.639(e), respectively, all provide for an exemption to the physician supervision requirements if the state in which the facility is located submits a letter to CMS signed by the Governor, following consultation with the State's Boards of Medicine and Nursing, requesting exemption from physician supervision of CRNAs. The request for exemption and recognition of state laws, and the withdrawal of the request may be submitted at any time, and are effective upon submission. Facilities and states should see the provisions cited here for further details on these requirements.

Hospitals/Psychiatric Hospitals/Critical Access Hospitals

Hospitals/Psychiatric Hospitals/CAHs	CMS waived enforcement of certain aspects of EMTALA, allowing hospitals, psychiatric hospitals and CAHs to screen patients at a location offsite from the hospital's campus to prevent the spread of COVID-19, as long as it was consistent with a state's emergency preparedness or pandemic plan.	The waiver of enforcement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirements related to verbal orders where read-back verification is required but authentication may occur later than 48 hours.	The waiver of these requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirement that hospitals report patients in an intensive care unit whose death is caused by their disease, but who required soft wrist restraints to prevent pulling tubes/IVs, no later than the close of business on the next business day.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirements for hospitals that were considered to be impacted by a widespread outbreak of COVID-19. Hospitals that are located in a state that has widespread confirmed cases (<i>i.e.</i> , 51 or more confirmed cases), as updated on the CDC website, were not required to meet the following requirements: certain timeframes in providing a copy of a medical record; patient visitation, including the requirement to have written policies and procedures on visitation of patients who are in COVID-19 isolation and quarantine processes; and seclusion.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirements to allow used face masks to be removed and retained in the compounding area to be re-donned and reused during the same work shift in the compounding area only.	The waiver of these requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirement to provide detailed information regarding discharge planning.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived all the requirements and subparts related to post-acute care services.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirements to allow for physicians whose privileges will expire to continue practicing at the hospital and for new physicians to be able to practice before full medical staff/governing body review and approval, in order to address workforce concerns related to COVID-19.	The waiver of these requirements ends upon the conclusion of the PHE.

	CMS also waived certain requirements around details of the credentialing and privileging process	
Hospitals/Psychiatric Hospitals/CAHs	<p>CMS waived requirements related to the organization and staffing of the medical records department, the form and content of the medical record, and record retention. These flexibilities could be implemented as long as they were consistent with a state’s emergency preparedness or pandemic plan.</p> <p>CMS also waived certain requirements related to medical records to allow flexibility in completion of medical records within 30 days following discharge from a hospital.</p>	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirements for hospitals and CAHs to provide information about their advance directive policies to patients.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived certain physical environment requirements under the Medicare CoPs to allow for increased flexibilities for surge capacity and patient quarantine at hospitals, psychiatric hospitals and CAHs as a result of COVID-19.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS modified inspection, testing and maintenance (ITM) requirements for facility and medical equipment.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS modified ITM required by the Life Safety Code (LSC) and Health Care Facilities Code, with specified exceptions, which permitted facilities to adjust scheduled ITM frequencies and activities as necessary.	These flexibilities end upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived fire drills required by the LSC because of the inadvisability of drills that move and mass staff together. Instead, CMS permitted a documented orientation training program related to the current fire plan that considered current facility conditions.	This waiver ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived LSC requirements that would not permit temporary walls and barriers between patients.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirement to have an outside window or outside door in every sleeping room. This permitted spaces not normally used for patient care to be utilized for patient care and quarantine.	The waiver of this requirement ends upon the conclusion of the PHE.

Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirements for written agreements between hospitals and CAHs using telemedicine services and the distant-site hospitals or distant-site telemedicine entities furnishing the services.	The waiver of these requirements ends upon the conclusion of the PHE.⁷
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirement for Medicare patients to be under the care of a physician.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived certain requirements that address the statutory basis for hospitals, including the requirement that hospitals participating in Medicare and Medicaid must have a utilization review (UR) plan that meets certain specifications. CMS also waived the entire UR CoP, which requires that a hospital must have a UR plan with a UR committee that provides for a review of services furnished to Medicare and Medicaid beneficiaries to evaluate the medical necessity of the admission, duration of stay and services provided.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived emergency services requirements with respect to surge facilities only, such that written policies and procedures for staff to use when evaluating emergencies were not required for surge facilities.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirements for hospitals and CAHs to develop and implement emergency preparedness policies and procedures, and for their emergency preparedness communication plans to contain specified elements with respect to surge sites.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirements to provide details on the scope of the QAPI program, the incorporation and setting of priorities for the program's performance improvement activities, and integrated QAPI programs (for hospitals that are part of a hospital system).	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirements for nursing staff to develop and keep current a nursing care plan for each patient, and for hospitals to have policies and procedures in place establishing which outpatient departments are not required to have a registered nurse present. These waivers applied to both hospitals and CAHs.	The waiver of these requirements ends upon the conclusion of the PHE.

⁷ These telemedicine CoP requirements are not related to the waivers under the PHE that have allowed all Medicare beneficiaries to receive Medicare telehealth and other communications technology-based services. After the PHE ends, the CAA 2023 provides for an extension for some of these telehealth flexibilities for professional services under the Physician Fee Schedule, as well as services furnished by RHCs and FQHCs through December 31, 2024.

Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirement for providers to have a current therapeutic diet manual approved by the dietitian and medical staff readily available to all medical, nursing and food service personnel.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirements for hospitals to designate in writing the personnel qualified to perform specific respiratory care procedures and the amount of supervision required for personnel to carry out specific procedures.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	<p>As part of the CMS Hospital Without Walls initiative during the PHE, hospitals could provide hospital services in other hospitals and sites that otherwise would not have been considered part of a healthcare facility or could set up temporary expansion sites to help address the urgent need to increase capacity to care for patients.</p> <p>CMS provided additional flexibilities for hospitals to create surge capacity by allowing them to provide room and board, nursing and other hospital services at remote locations, such as hotels or community facilities.</p> <p>Hospitals were expected to control and oversee the services provided at an alternative location</p>	These flexibilities end upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	<p>CMS waived special requirements for hospital providers of LTC services (swing beds) to allow hospitals to establish SNF swing beds payable under the SNF prospective payment system (PPS) to provide additional options for hospitals with patients who no longer required acute care but were unable to find placement in a SNF.</p> <p>This waiver applied to all Medicare enrolled hospitals, except psychiatric and long-term care hospitals, that needed to provide post-hospital SNF level swing-bed services for non-acute care patients in hospitals, as long as the waiver was consistent with the state's emergency preparedness or pandemic plan.</p> <p>This waiver was permissible for swing-bed admissions during the COVID-19 PHE with an understanding that the hospital must have a plan to discharge swing-bed patients as soon as practicable, when a SNF bed became available or when the PHE ended, whichever was earlier.</p>	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	<p>CMS waived requirements to allow acute care hospitals with excluded distinct part inpatient psychiatric units to relocate inpatients from the excluded distinct part psychiatric unit to an acute care bed and unit because of a disaster or emergency.</p>	<p>The waiver of these requirements ends upon the conclusion of the PHE.</p> <p>Inpatients receiving psychiatric services paid under the inpatient psychiatric facility PPS and furnished by the excluded distinct part</p>

		psychiatric unit of an acute care hospital cannot be housed in an acute care bed and unit.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived requirements to allow acute care hospitals with excluded distinct part inpatient rehabilitation units to relocate inpatients from the excluded distinct part rehabilitation unit to an acute care bed and unit because of a disaster or emergency.	The waiver of these requirement ends upon the conclusion of the PHE. Inpatients receiving rehabilitation services paid under the IRF PPS and furnished by the excluded distinct part rehabilitation unit of an acute care hospital cannot be housed in an acute care bed and unit.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the minimum personnel qualifications for clinical nurse specialists, nurse practitioners and physician assistants.	This waiver ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS deferred staff licensure, certification or registration to state law by waiving the requirement that CAH staff be licensed, certified or registered in accordance with applicable federal, state, and local laws and regulations.	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirement that a CAH be located in a rural area or an area treated as rural, allowing CAHs flexibility in the establishment of surge site locations. CMS also waived the requirement regarding the CAH's off-campus and co-location requirements, allowing CAHs flexibility in establishing temporary off-site locations.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirements under the Medicare CoPs that CAHs limit the number of beds to 25 and limit the length of stay to 96 hours.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived certain provider-based department requirements to allow hospitals to establish and operate as part of the hospital any location meeting the hospital CoPs that continued to apply during the PHE.	The waiver of these requirements ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the requirement that a doctor of medicine or osteopathy be physically present to provide medical direction, consultation and supervision for the services provided in a CAH. CMS retained the regulatory language in the second part of the requirement that a physician be available "through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral."	The waiver of this requirement ends upon the conclusion of the PHE.
Hospitals/Psychiatric Hospitals/CAHs	CMS waived the enforcement of certain aspects of EMTALA. This allowed hospitals, psychiatric hospitals and CAHs to screen patients at a location offsite from the hospital's campus to	The waiver of this requirement ends upon the conclusion of the PHE.

prevent the spread of COVID-19, as long as doing so was consistent with a state's emergency preparedness or pandemic plan.

Intermediate Care Facilities for Individuals with Intellectual Disabilities

ICF/IIDs	CMS waived the requirements for clients to have the opportunity to participate in social, religious and community group activities.	The waiver of these requirements ends upon the conclusion of the PHE.
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ICF/IIDs	CMS waived, in part, the requirements related to routine staff training programs unrelated to the PHE.	The waiver of these requirements ends upon the conclusion of the PHE.
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ICF/IIDs	CMS waived the requirement that each client must receive a continuous active treatment program, which includes consistent implementation of a program of specialized and generic training, treatment, health services and related services. CMS waived the components of beneficiaries' active treatment programs and training that would violate current state and local requirements for social distancing, staying at home and traveling for essential services only.	Surveyor determinations of a provider's/supplier's compliance with this requirement will begin 60 days after the conclusion of the PHE (July 11, 2023).
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ICF/IIDs	CMS waived the requirements for a facility to provide sufficient direct support staff so that direct care staff are not required to perform support services that interfere with direct client care.	Surveyor determinations of a provider's/supplier's compliance with this requirement will begin at the end of the calendar year in which the PHE ends (December 31, 2023).
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Life Safety Code (LSC) for Multiple Providers

LSC for Multiple Providers	CMS waived the prescriptive requirements for the placement of ABHR dispensers for use by staff and others because of the increased need for ABHR in infection control.	The waiver of these requirements ends upon the conclusion of the PHE.
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Rural Health Clinics/Federally Qualified Health Clinics

RHCs/FQHCs	CMS waived the requirement that a nurse practitioner, physician assistant or certified nurse-midwife be available to furnish patient care services at least 50% of the time that the RHC or FQHC operates.	The waiver of this requirement ends upon the conclusion of the PHE.
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RHCs/FQHCs	CMS waived the requirement for RHCs and FQHCs to be independently considered for Medicare approval if services are furnished in more than one permanent location, and removed the location restrictions.	The waiver of this requirement ends upon the conclusion of the PHE. RHCs and FQHCs at temporary expansion locations will no longer be able to render services at those locations.
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RHCs/FQHCs	CMS waived the requirement that physicians provide medical direction for the RHC's or FQHC's healthcare activities and consultation for and medical supervision of the healthcare	Surveyor determinations of a provider's/supplier's compliance with this requirement will begin at the end of the
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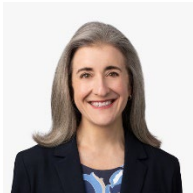
staff, but only with respect to medical supervision of nurse practitioners and only to the extent permitted by state law.

calendar year in which the PHE ends (December 31, 2023).

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