



Telehealth and the End of the PHE

When will it end?

On January 30, 2023, it was announced that the national public health emergency (PHE) would be ending on May 11, 2023 following almost 3 years.

What happens next?

Because the PHE extended over multiple years and impacted a wide range of different health services, there has been confusion over which telehealth waivers and flexibilities allowed during the PHE would cease immediately, which would continue for a time, and which are now considered permanent. This guide is intended to provide a look how, based on current guidance, waivers and flexibilities are expected to be addressed following the PHE.



Waivers & Policies Ending with the PHE

Allow remote evaluations, virtual check-ins and e-visits to be provided to new patients

During the PHE, these services were allowed to be furnished to both new and existing patients. Following the end of the PHE, they will only be allowed for existing patients who have an established patient-provider relationship.

Allow remote physiological monitoring (RPM) services to be furnished to new patients

During the PHE, these services were allowed to be furnished to both new and existing patients. Following the end of the PHE, they will only be allowed for existing patients who have an established patient-provider relationship.

Waive requirement that 99453 and 99454 maybe reported with fewer than 16 days of data

CPT codes 99453 and 99454 are utilized for RPM billing – during the PHE, they could be billed with as few as 2 days of data available. Following the end of the PHE, at least 16 days of data per calendar month must be provided in order to bill.

Removal of frequency limits on specific telehealth services

Certain codes for Medicare telehealth have associated frequency requirements and limits which were suspended for the duration of the PHE. Those that this rule applies to are listed below:

- CPT codes 99231-99233 – once every 3 days
- CPT codes 99307-99310 – once every 14 days
- CPCS codes G0508-G0509 – once per day

Following the end of the PHE, these frequency requirements and limits will be in place again.

Allowing certain face-to-face visits for end-stage renal disease (ESRD) to take place via telehealth

Patients on at-home dialysis for ESRD must have face-to-face appointments for the first three months of treatment and every three months following that. During the PHE, this was allowed to occur via telehealth – after the end of the PHE, these appointments must occur in person again.

In-person/face-to-face visit requirement for National Coverage Determination (NCD) or Local Coverage Determination (LCD) may take place via telehealth

Appointments for NCD or LCD were allowed to occur via telehealth during the PHE – following the end of the PHE, they must occur in-person again.



Waivers & Policies Ending with the PHE

Allowed virtual supervision for teaching physicians

For all teaching settings during the PHE, teaching physicians could direct care and review services each resident provides during or at once after each visit virtually. After the PHE, teaching physicians only in residency training sites located outside of a metropolitan statistical area may direct, manage, and review care furnished by residents through audio/video real-time communications technology. This policy does not apply in the case of surgical, high risk, interventional, or other complex procedures, services performed through an endoscope, and anesthesia services.

Flexibilities to Stark Laws

Under the PHE, physician self-referral laws (also called “Stark Law”) which prohibit physicians from making referrals to health services provided by an entity they or an immediate family member had a financial relationship to were relaxed in some cases. Following the end of the PHE, these flexibilities will no longer apply and physicians will need to comply with the entity of Stark Laws.

Allowing the use of virtual communication services (G0071) for FQHCs/RHCs

Virtual communication services by FQHCs/RHCs have been expanded during the PHE. When the COVID-19 PHE ends, the payment for virtual communication services (G0071) will no longer include online digital evaluation and management services and these services may only be provided to established patients. Additionally, consent for services will require direct supervision.

Allowed physicians to conduct required face-to-face visits required three times a week via telehealth for in-patient rehabilitation facilities (IRFs)

During the PHE, practitioners could perform the required three face-to-face patient visits per week via telehealth in IRFs. Following the end of the PHE, practitioners will no longer be able to use telehealth appointments to meet this requirement.

Hospital Originating Site Facility Fee for Professional Services Furnished Via Telehealth

During the PHE, a physician or nonphysician practitioner, who typically furnishes professional services in the hospital outpatient department, furnishes telehealth services to the patient’s home during the COVID-19 PHE as a “distant site” practitioner, they bill with a hospital outpatient place of service, since that is likely where the services would have been furnished if not for the COVID19 PHE. Following the end of the PHE, this will no longer be the case.



Waivers & Policies Ending with the PHE

CMS waived provisions related to telemedicine for hospitals and CAHs at 42 CFR 482.12(a)(8)-(9) and 42 CFR 485.616(c)

During the PHE, these provisions were waived to make it easier for telemedicine services to be furnished to the hospital's patients through an agreement with an off-site hospital. Following the end of the PHE, this waiver will end and provisions will be in place again.

Waived the specific requirement that prohibits CMHCs from providing partial hospitalization services and other CMHC services in an individual's home using telecommunication technology.

During the PHE, Counselors and other employed CMHC staff could furnish services to the beneficiary, either through telecommunications technology or in-person, in a temporary expansion location, which may include the beneficiary's home, as long as it has been made an expanded CMHC. When the PHE ends, these flexibilities will end as well.

During the PHE hospice providers may provide services to a Medicare patient receiving routine home care through telecommunications technology

During the PHE, hospice providers were allowed to provide patients routine at-home care via telehealth. Following the end of the PHE, this will no longer be allowed.

The policies allowed by COVID-19 PHE waivers will end immediately following the end of the PHE (expected on May 11, 2023).



Waivers & Policies Active Through Dec 31, 2023

Temporary list of eligible services that may be provided via telehealth

The following services were added to the Medicare Telehealth Services List during the PHE:

- Emergency Department Visits, Levels 1-5
- Initial and Subsequent Observation and Observation Discharge Day Management
- Initial Hospital Care and Hospital Discharge Day Management
- Initial Nursing Facility Visits, All Levels (Low, Moderate, and High Complexity) and Nursing Facility Discharge Day Management
- Cardiac Care Services
- Critical Care Services
- Domiciliary, Rest Home, or Custodial Care Services, New and Established patients
- ESRD Services
- Eye Examinations
- Home Visits, New and Established Patient
- Inpatient Neonatal and Pediatric Critical Care, Initial and Subsequent
- Initial and Continuing Intensive Care Services (CPT code 99477-99478).
- Care Planning for Patients with Cognitive Impairment
- Group and Individual Psychotherapy
- Psychological and Neuropsychological Testing
- Neurostimulator Services
- Rehabilitation – Pulmonary and Cardiac
- Speech and Hearing
- Therapy Services, Physical and Occupational Therapy
- Radiation Treatment Management Services
- Ventilation Services
- Prolonged Outpatient Office Visit
- Telephone E/M

See Medicare fact sheets for associated CPT codes. These services will be allowed through the end of 2023 – the future of these services is expected to be addressed in the 2024 Physician Fee Schedule. Additional considerations surrounding the allowed list of telehealth services by CMS will be ongoing as further evidence of efficacy is gathered.



Waivers & Policies Active Through Dec 31, 2023

Virtual presence may be used to meet direct supervision requirements

During the PHE, CMS modified the regulatory definition of direct supervision, which requires the supervising physician or practitioner to be “immediately available” to furnish assistance and direction during the service, to include “virtual presence” of the supervising clinician through the use of real-time audio and video technology. This flexibility is currently set to return to pre-PHE rules at the end of the calendar year that the PHE ends.

According to the 2023 Physician Fee Schedule, these policies allowed by COVID-19 PHE waiver will extend through the rest of 2023. At this time, they are expected to expire following that – more information will be provided closer to the end of coverage.



Waivers & Policies Active Through Dec 31, 2024

Allowing all eligible Medicare providers to provide services via telehealth.

During the PHE, all eligible Medicare providers were able to furnish services to beneficiaries via telehealth regardless of location. After the ending of the PHE, the Consolidated Appropriations Act, 2023 has provided for an extension for some of these flexibilities through December 31, 2024.

Temporarily continue to allow the use of audio-only to provide certain services.

Waivers that allowed audio-only care for telephone evaluation and management services, behavioral health counseling, and educational services only were enacted during the PHE. Additionally, telephone evaluation and management visits (CPT codes 99441-99443) have been allowed at an equivalent for outpatient/in-office visits with established patients. After the end of the PHE, this coverage will be extended through December 31, 2024.

Temporarily waive site requirements such as patient needing to be in a rural area or in a specified health care site when receiving services via telehealth.

Under the PHE waivers, certain requirements related to patient location (i.e. rural requirements) were suspended. This will continue through December 31, 2024. Temporarily suspend in-person visit requirement for delivery of mental health services via telehealth when patient is not located in a geographically and/or site eligible location

Allow FQHCs/RHCs to continue to act as telehealth providers

During the PHE, FQHCs/RHCs have been allowed to provide their services via telehealth with some restrictions. They will continue to be allowed to do so through December 31, 2024.

Delay requirement of a prior in-person visit for the provision of a mental health visit via real-time telecommunication technology (FQHCs/CHCs)

During the PHE, FQHCs/RHCs have been allowed to provide mental health services via telehealth without a required in-person appointment beforehand. They will continue to be allowed to do so through December 31, 2024.



Waivers & Policies Active Through Dec 31, 2024

Required face-to-face encounter for home health may be conducted via telehealth when the patient is at home

During the PHE, required face-to-face encounters for home health visits were allowed to be delivered via telehealth when the patient was at home. This will continue to be allowed through December 31, 2024.

Face-to-face encounters for purposes of patient recertification for the Medicare hospice benefit can now be conducted via telehealth

Hospice patients are able to have encounters for purposes of patient recertification done via telehealth under the PHE. This will continue to be allowed through December 31, 2024.

According to the Consolidated Appropriations Act of 2023, these policies allowed by COVID-19 PHE waiver will extend through December 31, 2024. The future of these policies and allowed services are expected to be addressed prior to December 31, 2024. Additional considerations surrounding the allowed list of telehealth services by CMS will be ongoing as further evidence of efficacy is gathered.



Permanent Policies

Allow other providers such as PTs, OTs to provide e-visits

During the PHE, licensed clinical social workers, clinical psychologists, physical therapists, occupational therapists, and speech language pathologists were temporarily allowed to provide telehealth. They are now permanently allowed to do so.

Allowing obtaining annual beneficiary consent for virtual check-ins to be obtained at the same time as when the services are furnished (note – established patients only)

Waivers were passed that allowed providers to obtain annual beneficiary consent for virtual check-ins as a flexibility during the PHE. This will now be allowed permanently, though only for established patients.

Opioid Treatment Programs (OTPs) may use audio-only to provide counseling and therapy services when live video not available and certain other requirements met.

During the PHE, patient counseling and therapy services could be provided by telephone in cases where two-way interactive audio-video communication technology was not available to the patient. This flexibility has been made permanent for OTPs. CMS is also reviewing the feasibility of OTPs to furnish periodic assessments via audio-only (telephone) interactions under certain circumstances through the end of 2023.

Home Health Agencies (HHA) may provide more services to beneficiaries using telecommunications technology within the 30-day care period as long as it's part of the patient's plan of care and does not replace needed in-person visits

This provision is permanent beyond the COVID-19 PHE. Home health services furnished using telecommunication systems are required to be included on the home health claim beginning July 1, 2023.

These policies allowed by COVID-19 PHE waivers are now permanent according to the latest Physician Fee Schedule

**Contact the
UMTRC!**



(812) 478-3919



info@umtrc.org



1100 West 42nd Street, Suite 305
Indianapolis, IN 46208



<https://www.umtrc.org/>