Frequently Asked Questions:

CMS Waivers, Flexibilities, and the End of the COVID-19 Public Health Emergency

While some FAQs are relevant for all programs, including Medicare, Medicaid, the Children's Health Insurance Program (CHIP), and private insurance, other questions are program specific as indicated below.

1. **When is the COVID-19 Public Health Emergency expected to end?**

   Based on current COVID-19 trends, the Department of Health and Human Services (HHS) is planning for the federal Public Health Emergency for COVID-19 (PHE) declared by the Secretary of the Department of Health and Human Services (Secretary) under Section 319 of the Public Health Service (PHS) Act to expire at the end of the day on May 11, 2023.

2. **On April 10, 2023, the President signed H.J.Res.7. into law, which terminated the national COVID-19 emergency immediately. Did this end the COVID-19 PHE declared by the Secretary?**

   The PHE for COVID-19 declared by the Secretary under section 319 of the PHS Act is not the same as the COVID-19 National Emergency declared by President Trump in 2020, which ended when President Biden signed H.J.Res.7. Therefore, the end of the COVID-19 National Emergency generally does not impact current operations at HHS, and it does not impact the expected May 11, 2023, expiration of the federal PHE for COVID-19 or any associated unwinding plans. Further, any existing waivers currently in effect and authorized under section 1135 of the Social Security Act will remain in place until the end of the PHE for COVID-19 declared by the Secretary under section 319 of the PHS Act.

3. **Many of the flexibilities and waivers in place are tied to emergency declarations, legislative actions by Congress, and regulatory actions across government. Can the Centers for Medicare & Medicaid Services (CMS) extend Medicare, Medicaid, and Marketplace flexibilities beyond May 11, 2023, when the Administration is planning to end the PHE?**

   Thanks to the Administration's whole-of-government approach to combatting the virus, we are in a better place in our response than we were three years ago, and we can transition away from an emergency phase. The emergency declarations, legislative actions by Congress, and regulatory actions across government, including by CMS, allowed for changes to many aspects of health care delivery during the COVID-19 PHE. Health care providers received maximum flexibility to streamline delivery and allow access to care during the PHE. While some of these changes will be permanent or have been extended due to Congressional action, some waivers and flexibilities will expire, as

they were intended to respond to the rapidly evolving pandemic, not to permanently replace standing rules.

CMS has released several documents that identify when waivers and flexibilities will end, as well as which waivers and flexibilities have been extended or will remain beyond the end of the PHE. To help individuals served by our programs know what to expect when the COVID-19 PHE ends, CMS released a fact sheet that highlights major impacts. CMS also released provider-specific fact sheets that will help the health care sector transition to non-emergency operations when the PHE ends. In addition, CMS developed a roadmap for the eventual end of the COVID-19 PHE and is sharing information on what health care facilities and providers can do to prepare for future emergencies.

Additionally, we are offering technical assistance to States overseeing Medicaid and CHIP programs and engaging in public education about the necessary steps to prepare for the end of the PHE, including guidance on the end of the Medicaid continuous enrollment condition and the expiration of many other temporary authorities adopted by states during the COVID-19 PHE. For additional information, visit CMS.gov.

MEDICAID AND THE CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)

18. What is the end of the Medicaid continuous enrollment condition, and is it tied to the end of the PHE?

No. The end of the continuous enrollment condition for individuals enrolled in Medicaid is no longer linked to the end of the COVID-19 PHE. Instead, it ended on March 31, 2023.

In March 2020, Congress enacted the *Families First Coronavirus Response Act* (FFCRA), which made a temporary increase in the federal medical assistance percentage (FMAP) available to states that met certain conditions, including a condition under which states had to maintain the enrollment of any person enrolled in Medicaid as of or after March 18, 2020 (continuous enrollment condition). Primarily due to the continuous enrollment condition, Medicaid enrollment has grown substantially compared to before the pandemic, and the uninsured rate has dropped. As of December 2022, over 92 million people were enrolled in Medicaid and CHIP.

On December 29, 2022, President Biden signed into law the *Consolidated Appropriations Act, 2023* (CAA, 2023). This legislation ended the continuous enrollment provision on March 31, 2023. The CAA, 2023 also phases down the FFCRA temporary FMAP increase until December 31, 2023. All states, including states that accept the FFCRA temporary FMAP increase, began to return to normal eligibility operations as soon as April 1, 2023. This process includes restarting Medicaid and CHIP eligibility renewals for all enrollees and terminations of coverage for individuals who are no longer eligible. States have up to 12 months to return to normal eligibility and enrollment operations. All

states must meet certain reporting and other requirements during this return to normal enrollment and eligibility operations regardless of whether states continue to claim the FFCRA temporary FMAP increase.

It is a top CMS priority that people retain coverage, whether through Medicaid, CHIP, Marketplace, Medicare, or employer-sponsored health insurance. In an effort to minimize the number of people who lose Medicaid or CHIP coverage, CMS is working with states and stakeholders to inform people currently enrolled in Medicaid and CHIP about renewing their coverage and exploring other available health insurance options if they no longer qualify for Medicaid or CHIP, including through the Marketplaces. To find information about how to renew Medicaid or CHIP in your particular state, please visit our interactive map at Medicaid.gov. Additional information and resources can be found on CMS' Medicaid Unwinding web page.

19. When the PHE ends, will Medicaid continue to cover COVID-19-vaccines, testing, and treatments?

Generally, yes. As a result of the *American Rescue Plan Act of 2021* (ARPA), states must provide Medicaid and CHIP coverage, without cost-sharing, for COVID-19 vaccinations, testing, and treatments through the last day of the first calendar quarter that 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 coverage requirement will end on September 30, 2024.

After that date, many Medicaid and CHIP enrollees will continue to have coverage for COVID-19 vaccinations. After the ARPA coverage requirements expire, Medicaid and CHIP coverage of COVID-19 treatments and testing may vary by state.

Additionally, 18 states and U.S. territories have opted to provide Medicaid coverage to uninsured individuals for COVID-19 vaccinations, testing, and treatment. Under federal law, Medicaid coverage of COVID-19 vaccinations, testing, and treatment for this group will end when the PHE ends.

20. What Medicaid telehealth flexibilities will end, and what flexibilities will remain in place?

No flexibilities will end. For Medicaid and CHIP, telehealth flexibilities are not tied to the end of the PHE and have been offered by many state Medicaid programs long before the pandemic. Medicaid and CHIP telehealth policies will ultimately vary by state. CMS encourages states to continue to cover Medicaid and CHIP services when they are delivered via telehealth.

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

PRIVATE INSURANCE

21. What is the "Unwinding SEP," and how can consumers qualify?

CMS has announced a temporary Special Enrollment Period (SEP) for qualified individuals and their families who are losing Medicaid or CHIP coverage due to the end of the continuous enrollment condition. During this process, known as "unwinding," millions of individuals could lose their Medicaid or CHIP coverage and need to transition to other forms of coverage, including through the Marketplaces.

Due to the volume of individuals who could lose their Medicaid or CHIP coverage, state Medicaid and CHIP agencies may be unable to provide timely information about the termination of coverage and alternative plan options that would enable consumers to make an informed decision about their health care coverage options within 60 days. For example, a consumer may need clarity as to whether a loss of Medicaid or CHIP coverage was procedural, such as a failure to update information, or due to ineligibility, before deciding whether to pursue Marketplace coverage.

Additionally, many Medicaid and CHIP beneficiaries may have moved or changed addresses since last receiving communications from their state. As a result, they may not receive termination notices from their state Medicaid or CHIP agency within 60 days or at all. Given these exceptional circumstances, CMS has made this SEP, also referred to as the "Unwinding SEP," available so consumers can maintain coverage.

The Unwinding SEP will allow individuals and families in states with Marketplaces served by the HealthCare.gov platform to enroll in Marketplace coverage. Marketplace-eligible consumers who submit a new application or update an existing HealthCare.gov application between March 31, 2023, and July 31, 2024, and attest to a last day of Medicaid or CHIP coverage during the same time period will be eligible for the Unwinding SEP. Consumers who are eligible for the Unwinding SEP will then have 60 days after they submit their application to select a plan with coverage that will start on the first day of the month after they select a plan. Consumers will not be required to submit documentation of a qualifying life event to receive the Unwinding SEP.

22. What impact will the end of PHE have on private insurance coverage of vaccines?

Most forms of private health insurance, including all Affordable Care Act-compliant plans, must continue to cover without cost-sharing COVID-19 vaccines furnished by an in-network health care provider. People with private health insurance may need to pay part of the cost if an out-of-network provider vaccinates them.

23. What impact will the end of the PHE have on private insurance coverage of COVID-19 diagnostic testing?

Mandatory coverage for over-the-counter and laboratory-based COVID-19 PCR and antigen tests will end after the expected end of the PHE on May 11, 2023, though coverage will vary depending on the health plan. If private insurance chooses to cover these items or services, there may be cost sharing, prior authorization, or other forms of medical management may be required.

24. What impact will the end of the PHE have on private insurance coverage of treatments?

Nothing. The transition forward from the PHE will not change how treatments are covered, and in cases where cost sharing and deductibles apply now, they will continue to apply.

25. What is the impact of the end of the use of telehealth in private insurance?

Nothing. As is currently the case during the PHE, coverage for telehealth and other remote care services will vary by private insurance plan after the end of the PHE. When covered, private insurance may impose cost-sharing, prior authorization, or other forms of medical management on telehealth and other remote care services. For additional information on your insurer's approach to telehealth, contact your insurer's customer service number located on the back of your insurance card.