Returning to “Normal”

The End of the COVID-19 Public Health Emergency

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On May 11, 2023, the COVID-19 public health emergency (PHE) officially ended, signaling the return to the pre-pandemic “normal” and the application of the asterisk (*) next to calendar years 2020 to 2023 when performing data analytics. Since January 31, 2020, when the Secretary of the Department of Health and Human Services (HHS) declared the PHE, and March 30, 2020, when the Centers for Medicare & Medicaid Services (CMS) issued an interim final rule in response to the COVID-19 pandemic, healthcare providers have been working under many waivers and extensions that softened regulatory guidelines.

But before we look at what’s ahead, let’s first take a step back. When a PHE is declared, it is enacted for 90 days and can be renewed as necessary. Additionally, the HHS Secretary can also adjust the PHE length to be shorter than 90 days if needed. Since January 31, 2020, the COVID-19 PHE has continually been extended; however, on January 30, 2023, it was declared to end on May 11, 2023. This timing provided the required 60-day notification to state governors to prepare for the end of many of the COVID-19-related waivers and extensions. It also means that cancer programs and practices, as well as their providers, must prepare to return to “normal” or pre-pandemic practice standards.

Where to Go for Help

Due to the volume of changes enacted over the last few years, CMS has updated its website to provide direction on the policies and processes that are ending, changing, or remaining. One CMS resource, “Coronavirus Waivers & Flexibilities,” includes fact sheets by medical setting or entity type.[1] For example, there are separate documents for physicians and other clinicians, hospitals, and CAHs (critical access hospitals, teaching hospitals and teaching physicians, and hospice). On February 13, 2023, CMS also updated its telehealth list, removing the column that identified the expiration dates of non-permanent telehealth services.[1]

Originally outlined in the Consolidated Appropriations Act of 2022, all telehealth services and many waivers and extensions were supposed to continue for 151 days after the COVID-19 PHE ended; however, the Consolidated Appropriations Act of 2023 made changes to telehealth.[2,3] Specifically, changes to non-permanent waivers and extensions—that were enacted by CMS over the last three years—will occur on one of three dates: May 11, 2023, December 31, 2023, or December 31, 2024.

To better understand what will be changing or ending and when, listed below are many of the primary waivers and extensions that impact oncology providers. Note: this is not a comprehensive list, and I recommended healthcare professionals visit the CMS website for additional information.

Waivers and Extensions That Ended or Changed on May 11, 2023

- Virtual check-ins and e-visits for new patients will no longer be allowed; these visits will only apply to established patients. Healthcare Common Procedure Coding System (HCPCS) codes **G2010** and **G2012** (for physicians), as well as **G2251** and **G2252** (for non-physician practitioners), for remote evaluation of patient video/images and virtual check-in services can only be provided to established patients.
- Telehealth via any non-public facing application. Telehealth visits will continue until December 31, 2024; however, the technology used to conduct a visit must be HIPAA compliant beginning May 12, 2023.
- State laws will continue to govern whether a provider needs to be licensed in the state in which they practice. There is no CMS-based requirement that a provider must be licensed in their state of enrollment.
- Telemedicine services furnished to a hospital’s patients through an agreement with an off-site hospital will end.
- If a beneficiary’s home was designated as a provider-based department of the hospital for purposes of receiving outpatient services paid under the Hospital Outpatient Prospective Payment System (HOPPS), this designation will end.
- The process of allowing the addition of services to the Medicare Telehealth Services List on a sub-regulatory basis will end. Any requests for services to be added must be done through the rulemaking process.
- Subsequent inpatient visits provided via telehealth, without the limitation of the telehealth visit being once every three days (Current Procedural Terminology [CPT®] codes **99231–99233**), will end.

- Teaching physicians, who are only in residency training sites located outside a metropolitan statistical area, may direct, manage, and review care furnished by residents through audio/video real-time communication technology.
- The locum tenens provision to provide coverage longer than 60 consecutive days during the PHE, whether the arrangement is reciprocal billing arrangements or fee-for-time compensation arrangements, will revert to the original guidelines. On the 61st day after the PHE ends, the regular provider must use a different substitute (locum tenens) provider or return to work at their practice.

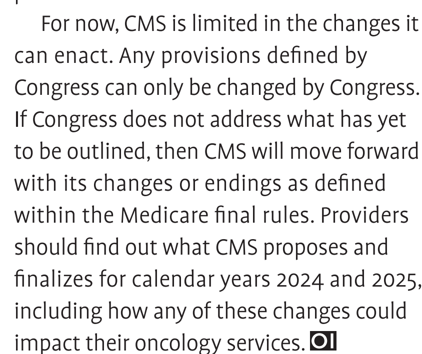
Waivers and Extensions That Will End or Change on December 31, 2023

- Physician treatment management visits (CPT **77427**) for radiation oncology will no longer be on the telehealth list of services. Radiation oncologists will be required to see patients for external beam radiation therapy in-person in their office or department where they work to bill for services.
- Prolonged outpatient office visits (HCPCS code **G2212**) will no longer be allowed as a telehealth service. For Medicare beneficiaries, prolonged outpatient services will need to be furnished in-person beginning January 1, 2024.
- CMS currently allows providers to be in their home to provide telehealth visits and report the address of their office or Medicare enrolled location on the claim form. This practice will be discontinued; starting January 1, 2024, CMS will require providers to be physically present in their office or department where they are enrolled with Medicare to bill for any telehealth services. The address and place of service will reflect where the provider is physically present, when providing the work that is billed for during the telehealth visit.
- CMS has allowed for the direct supervision of diagnostic tests; physicians' services, including those services provided incident to and in the office setting; and some hospital outpatient services to be provided using real-time audio/video capabilities. CMS reiterated in the calendar year 2022 Medicare Physician Fee Schedule final rule[4] that after December 31st of the year the PHE ends, providers will be required to be physically present to meet direct supervision guidelines—just as they were required prior to the PHE.

Waivers and Extensions That Will End or Change on December 31, 2024

- Telehealth services that are available to patients in any geographic area and originate in the United States will end. All telehealth services will revert to pre-pandemic guidelines. Patients will need to be present at an originating site—not their home—unless specifically designated for allowance. The House of Representatives bill H.R.134[5] was introduced on January 9, 2023, which would allow patients to be in any originating site located anywhere geographically to receive telehealth services, not only the limited locations as part of pre-pandemic requirements.
- Telehealth services that are provided to patients in their home will end. Prior to the Consolidated Appropriations Act of 2023,[3] CMS determined that only certain designated patients could continue to receive telehealth services while in their home. This was predominantly limited to behavioral health and the treatment of end-stage renal disease and acute stroke. The extension set through the end of 2024 is not diagnosis specific. Beginning January 1, 2025, patients will need to be at an originating site to receive telehealth services, as required pre-pandemic. Audio-only encounters via telephone evaluation and management services (CPT **99441–99443**) will be discontinued; CMS will no longer reimburse or accept these codes for services. The expansion of healthcare professionals, who can furnish distant-site telehealth services and include all those who are eligible to bill Medicare, will end and no longer include many non-physician practitioners.
- Medicare's payment of telehealth services at the same rate as in-person services will end. At this time, it is unknown what payment for telehealth services will look like beginning January 1, 2025. Prior to the PHE, telehealth services were reimbursed by Medicare but not at the same rate as in-person services.

As the PHE response to the COVID-19 pandemic continues to winddown, oncology providers will need to review the various extensions and waivers they implemented throughout the last three years. It is possible that some providers have already reverted to delivering care and services as they did pre-pandemic. For those who are still providing telehealth services, it is extremely important to review CMS' varying phases of change to provide a smooth transition for patients and staff.



For now, CMS is limited in the changes it can enact. Any provisions defined by Congress can only be changed by Congress. If Congress does not address what has yet to be outlined, then CMS will move forward with its changes or endings as defined within the Medicare final rules. Providers should find out what CMS proposes and finalizes for calendar years 2024 and 2025, including how any of these changes could impact their oncology services. OI

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