The End of the Covid-19 Public Health Emergency - Impacts for RHCs

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Welcome to the

Rural Health Clinic Technical Assistance Webinar

This webinar is brought to you by the National Association of Rural Health Clinics and is supported by cooperative agreement UG6RH28684 from the Federal Office of Rural Health Policy, Health Resources and Services Administration (HRSA). It is intended to serve as a technical assistance resource based on the experience and expertise of independent consultants and guest speakers.

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National Emergency Versus Public Health Emergency

COVID-19 National Emergency (Section 201 of the National Emergencies Act)

- Declared by the President; initially declared on March 13, 2020 and extended twice since
- House and Senate recently **voted to immediately end** the national emergency; President Biden expected to sign

Public Health Emergency (PHE) (Section 319 of the Public Health Service Act)

- Declared by Secretary of Health and Human Services (HHS); initially declared on January 27, 2020 and renewed every 90 days since
- **Expiring May 11, 2023**

Other Emergency Declarations

Emergency Declaration(Section 564 of the Federal Food, Drug, and Cosmetic Act)

- Issued by the Secretary of HHS; initially declared in February 2020
- This determination justified Emergency Use Authorization (EUA) of medical countermeasures to tackle COVID-19 (vaccines, tests, treatments)
- Separate expiration from PHE and National Emergency

What is concluding immediately after the COVID-19 Public Health Emergency expires?

RHC Specific Waivers - CMS

- Certain Staffing Requirements 2 CFR 491.8(a)(6)
  - CMS waived the requirement that a NP, PA, or CNM be available to furnish patient care services at least 50% of the time the RHC is operating.
- Temporary Expansion Locations 42 CFR §491.5(a)(3)(iii)
  - CMS waived the requirement that RHCs be separately considered for Medicare survey and certification if services were expanded into more than one permanent location, including areas that would not typically meet RHC location requirements.
- Bed Count for Provider-Based RHCs
  - CMS permitted provider-based RHCs subject to their clinic-specific, grandfathered upper-payment limit to increase their hospital bed count to 50+ without losing their grandfathered status.

What is concluding immediately after the COVID-19 Public Health Emergency expires?

RHC Specific Waivers Continued

- Home Nursing Visits
  - CMS removed the requirement that RHCs in an area without a current home health area shortage needed a written request and justification in order to provide home nursing services.
- Virtual Communication Services
  - CMS allowed for online digital evaluation and management services (99421, 99422, and 99423) to be reimbursed under G0071.
    - After the PHE, G0071 should only be used for G2012 and G2010.

Other waivers concluding immediately after the COVID-19 PHE expires:

HIPAA Notification of Enforcement Discretion - HHS Office for Civil Rights (OCR)

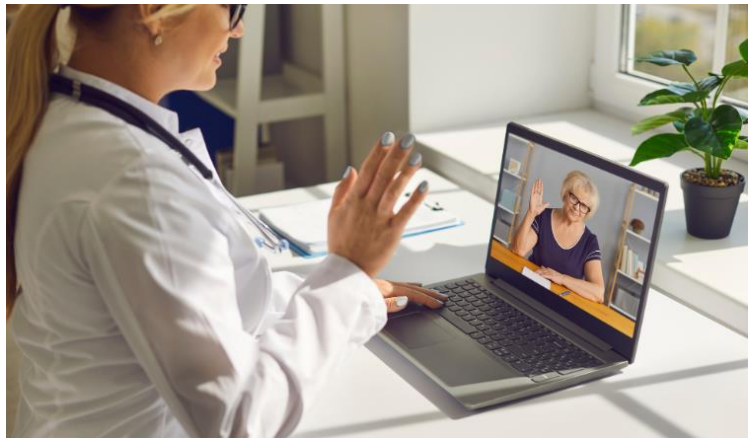
- "OCR will exercise its enforcement discretion and will not impose penalties on covered health care providers for noncompliance with the requirements of the HIPAA Rules in connection with the good faith provision of telehealth using non-public facing audio or video remote communication technologies {Zoom, Facebook Messenger, Skype, FaceTime} during the COVID-19 PHE."

- Once this expires, providers can be penalized for noncompliance with HIPAA rules in connection to telehealth
  - Audio-only telehealth services can still be provided in compliance with the HIPAA Privacy Rule

What are HIPAA Compliant Telehealth Platforms?

HHS.gov provides a list of some vendors that "represent that they provide HIPAA-compliant video communication products and that they will enter into a HIPAA Business Associate Agreement (BAA) in connection with the provision of their video communication products."

- Skype for Business / Microsoft Teams
- Updox
- VSee
- Zoom for Healthcare
- Doxy.me
- Google G Suite Hangouts Meet
- Cisco Webex Meetings / Webex Teams
- Amazon Chime
- GoToMeeting
- Spruce Health Care Messenger



"**Note:** OCR has not reviewed the BAAs offered by these vendors, and this list does not constitute an endorsement, certification, or recommendation of specific technology, software, applications, or products. There may be other technology vendors that offer HIPAA-compliant video communication products that will enter into a HIPAA BAA with a covered entity. Further, OCR does not endorse any of the applications that allow for video chats listed above."

Other waivers concluding immediately after the COVID-19 PHE expires:

Waivers & Flexibilities for Health Care Providers (Including Critical Access Hospitals and Other Facility Types)

- CAH 96-hour rule and 25 bed count
- Waivers of sanctions under the Physician Self-Referral Law (Stark Law)
- Provider enrollment waivers
- 20% add-on payment for inpatient COVID-19 patients
- Ryan Haight Act Waiver

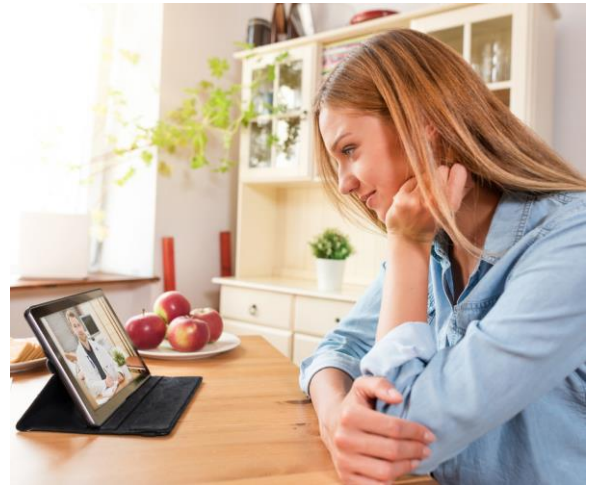
Waivers Separate from the PHE

RHC Specific Waivers - CMS

- Physician Supervision of NPs in RHCs and FQHCs. 42 CFR 491.8(b)(1)
  - CMS waived the requirement that physicians provide medical direction for the RHCs' nurse practitioners, to the extent permitted by state law.
  - This waiver will end on December 31, 2023

Flexibilities Separate from the PHE - Telehealth

- RHCs ability to be Medicare telehealth distant site providers was once linked to the PHE, then to the PHE + 151 days, and now is extended through **December 31, 2024**
  - RHCs should continue to bill G2025 for any of the 200+ CPT codes on this list (including many via audio-only)
  - Costs and encounters carved out of cost report
  - Reimbursement Rate 2023: $98.27



RHC providers working for the RHC can continue to provide telehealth services from anywhere, including their home through 12/31/2024.

Flexibilities Separate from the PHE - Mental Health via Telehealth

- Mental health services provided via telehealth are **permanently covered** by Medicare in RHCs
  - RHCs receive their All-Inclusive Rate for these services
  - Costs and encounters are included on the cost report

- Occasional in-person visit requirement currently waived through December 31, 2024
  - Requirements beginning January 1, 2025: In-person visit within 6 months prior to the start of mental health telehealth services beginning and at least once per year; exceptions based on patient need and circumstance

CURRENT MEDICARE TELEHEALTH BILLING POLICIES

Name of Telehealth Service	Brief Description	How to Bill	Amount (2023)
Virtual Check-In or Virtual Care Communications	Remote evaluation – G2010 Brief communication with patient (5 min) – G2012	G0071 No modifier necessary Rev Code 052X	$23.72
Chronic Care Management	99484, 99487, 99490, 99491, 99424, and 99425 = G0511 99492, 99493 = G0512	G0511 – Care Management G0512 – Psychiatric Care Management	G0511 - $77.94 G0512 - $146.73
Digital e-visits	Online digital evaluation and management 99421-99423	G0071 No modifier Rev Code 052X	$23.72
Telehealth Visits	One to one substitutes for in-person services/visits List of allowable services maintained by CMS **Coverage through 12/31/2024**	**G2025** Modifier 95 optional Modifier CS (for services where cost sharing is waived) Rev Code 052X Costs and encounters carved out of cost report	$98.27
Mental Health Telehealth Visits	CPT Codes that can be billed with 0900 revenue code **Permanent coverage**	Rev Code 0900 Use proper mental health CPT code Modifier CG always Modifier 95 if audio-video Modifier FQ if audio-only Count costs and encounters on cost report	All-Inclusive Rate

Waivers Separate from the PHE – Medicaid Redetermination

Consolidated Appropriations Act, 2023 de-linked the "continuous enrollment" provision from the PHE.

- States will reevaluate all Medicaid beneficiaries' eligibility for the first time since COVID began
  - Over 91 million Americans with Medicaid coverage currently; several states began disenrolling individuals on April 1
  - **Urban Institute** survey highlighted that over 60% of adult Medicaid beneficiaries were unaware of the upcoming redetermination

You can help educate your patients on this process by ensuring they have reported current mailing address, phone number, email, etc.

- Individuals who need to complete a renewal form will be mailed a letter about coverage.

Commercialization of COVID Products

Vaccines, tests, and treatments will transition to commercial products as the federal government's purchased supply is expended.

- In general, this may mean patients have cost sharing responsibilities and in theory, could result in supply and demand challenges (will all vary by payor).

For RHCs:

- COVID-19 vaccines and their administration will continue to be paid at 100% of reasonable cost on the cost report
  - Tool for searching other payors: https://www.cms.gov/.../covid-19-vaccines-and-monoclonal...
- Monoclonal antibody products and their administration (when approved/authorized) will be paid at 100% of reasonable cost through the RHC cost report

Ongoing Access to COVID-19 Products

HRSA Programs continue to offer free, direct access to COVID-19 at-home tests, vaccines, and therapeutics.

- The availability of these are not tied to the PHE or other emergency declaration.
- *Note: many expiration dates have been extended.
- Email RHCcovidsupplies@narhc.org for questions and enrollment instructions.

Requirements Still in Place

CMS COVID-19 Health Care Staff Vaccination Mandate

- CMS has not announced any changes, nor a sunsetting date, for the mandate at this time.

Other Update – RHC Rurality Requirements

Interim Process

- RHC applicants or relocating RHCs will meet the rural location requirement if the physical address is "non-urbanized" or in an "urban cluster" per the 2010 Census Bureau Data, OR if the physical address is not an urban area per the 2020 Census Bureau Data
- Both 2010 and 2020 Census Bureau data can be found here
- **Am I Rural Tool**

Other Reminders – RHC Testing and Mitigation Program Reporting & Returns

- RHCs were allocated $100,000 per clinic in 2021, issued at the TIN level, for Testing and Mitigation efforts
- Project period: January 1, 2021 – December 31, 2022
- Reporting was due on RHCcovidreporting.com on January 31, 2023 and the return of any unspent funds was due March 2, 2023

*If you know your organization is past due, or you want to confirm reporting compliance, please email RHCcovidreporting@narhc.org

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