

Returning to Routine Operations at the End of the Public Health Emergency



***Sunsetting
Medicaid and CHIP
Disaster Relief SPAs
and Section 1135
Waivers***

May 26, 2022

Temporary Authorities Adopted During COVID-19 Public Health Emergency

Authority	Termination Date
Medicaid & CHIP 1135 Waivers	Expire at the end of the PHE ¹
Medicaid and CHIP Disaster Relief SPAs	Expire at the end of PHE, or an earlier date elected by the state

- States should review their Disaster Relief SPAs and section 1135 waivers approved during the PHE in order to plan appropriately.
- States must comply with relevant regulatory and statutory requirements when transitioning back to routine operations.



¹Per CMS guidance in the December 2020 SHO, there are several flexibilities where states will have a longer period of time to come into compliance with regulatory timeframes.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.

Section 1135 Waiver Authority



Review: In advance of the end of the PHE, CMS recommends states review approved section 1135 waivers to determine actions needed for returning to routine operations at the end of the PHE.



Notify: States must provide 10-day advance notice to Medicaid beneficiaries when required under 42 CFR part 431, subpart E before ending certain section 1135 waivers.¹



Inform: States should inform providers of changes timely to minimize disruption.²



Update: States should evaluate necessary changes to systems and/or processes, financial reporting and managed care operations.² In addition, states should consider the program integrity risks created by the PHE and its unwinding and mitigate them to the extent practicable.³



NOTE: Per the December 2020 SHO Letter #20-004, states have additional time to complete certain actions after the PHE ends. Examples include initial HCBS level of care determinations, provider screening requirements, and temporary provider enrollment.⁴

¹Per CMS guidance in the December 2020 SHO; APPENDIX B – Requirements for Ending Temporary Flexibilities

²Per CMS guidance in the December 2020 SHO; APPENDIX D – Operational Actions Needed to End Temporary Authorities

³Risk Assessment Tool for Evaluating COVID-19 Flexibilities and Waivers, Medicaid and CHIP Learning Collaborative July 15, 2021

⁴Per CMS guidance in the December 2020 SHO; APPENDIX C - Timeframes for Resolution of Section 1135 Waivers and Pending Eligibility and Enrollment Actions

Disaster Relief SPA Authority

As states are reviewing the flexibilities granted during the PHE, CMS recommends that states review their approved Medicaid Disaster Relief SPA provisions to determine, with respect to each provision, whether they want to:

1. **Let it Expire** – allow the provision to expire at the end of the PHE;
2. **Temporarily Extend** – extend the provision after the PHE expires through a streamlined SPA approval process; or
3. **Continue Indefinitely** - continue the change through a non-disaster amendment to the state plan that does not include a specific end date (where permissible).



State Actions When Sunsetting Disaster Relief SPA Provisions



Provide at Least a 10-day Advance Notice to Beneficiaries



Inform Providers Timely



Update Systems and/or Processes



Ensure Accurate Financial Reporting



Assess Managed Care Implications

States should apply these actions as appropriate.
Refer to December 2020 SHO Letter #20-004 and July 2021 Risk Assessment Tool for Evaluating COVID-19 Flexibilities and Waivers for additional guidance.

Tribal Consultation Requirements

- In states where one or more Indian Health Programs or Urban Indian Organizations furnished health care services, the state must solicit advice from designees of those entities prior to certain SPA submissions.
- Soliciting advice is required for any Medicaid SPA change that is likely to have a direct effect, as defined in each state plan, on American Indians/Alaska Natives, Indian Health Programs or Urban Indian Organizations.
- Tribal consultation and/or solicitation of advice may be required for both positive and/or negative changes in accordance with each state's approved tribal consultation state plan pages.



Some states have specific tribal consultation timelines in their state plan (e.g. 60 days) which will need to be considered in advance as part of the state's overall planning efforts.

State Actions in Preparation for the end of PHE: Summary

STATE ACTIONS

ASSESS

Review CMS Guidance: December SHO-Letter #20-004

Conduct State Assessment:

- Review 1135 waivers to plan for smooth transition to routine operations.
- Review approved Disaster Relief SPAs and decide: whether to allow to expire, extend temporarily, or continue indefinitely.

Determine Timing for Key Actions

PREPARE

Prepare for authorities that will expire

- Draft provider communications, beneficiary notices and plan for system and payment changes.

For SPAs or waivers that will be effective post-PHE

- Conduct public notice and tribal consultation for SPA authorities states want to continue past PHE-end
- Submit SPAs to temporarily or indefinitely extend PHE flexibilities

Prior to the end of the PHE, submit SPAs to reflect COVID-19 Vaccines, Testing and Treatment requirements under sections 9811 and 9821 of the American Rescue Plan

FINALIZE

Complete all PHE activities where CMS allows additional transition time, e.g., complete initial level of care (LOC) assessments, finalize provider enrollment and end temporary Appendix K flexibilities.

PHE Ends

LOC Assessments - 90 days
Provider Enrollment and Appendix K - 6 months after PHE ends

Resources

[State Health Official Letter \(SHO\) 20-004 \(December 22, 2020\)](#): Planning for the Resumption of Normal State Medicaid, Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Operations Upon Conclusion of the COVID-19 Public Health Emergency

[SHO 21-002 \(August 13, 2021\)](#): Updated Guidance Related to Planning for the Resumption of Normal State Medicaid, Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Operations Upon Conclusion of the COVID-19 Public Health Emergency

[June 16, 2020 All-State Call Presentation](#): Additional information on federal requirements for retaining Medicaid state plan flexibilities

Program Integrity Considerations for Restoring State Medicaid and Children's Health Insurance Program Operations Upon Conclusion of the COVID-19 Public Health Emergency

- [Risk Assessment Template - Word Version](#)
- [Risk Assessment Template - Excel Version](#)
- [Risk Assessment Tool Webinar](#)

Questions