

# Status of Flexibilities Following the End of the COVID-19

## State and Federal Public Health Emergencies

Based on information available through January 6, 2023

**APL** - all plan letter

**ARP** - American Rescue Plan

**ASC** - ambulatory surgery center

**BOP** - Board of Pharmacy

**CAH** - critical access hospital

**CCR** - California Code of Regulations

**CDC** - Centers for Disease Control and Prevention

**CDPH** - California Department of Public Health

**CFR** - Code of Federal Regulations

**CHIP** - Children's Health Insurance Program

**CMS** - Centers for Medicare & Medicaid Services

**CRNA** - certified registered nurse anesthetist

**DME** - durable medical equipment

**DMHC** - Department of Managed Health Care

**EMSA** - Emergency Medical Services Authority

**FFCRA** - Families First Coronavirus Response Act

**FFS** - fee-for-service

**FMAP** - Federal Medical Assistance Percentage

**FQHC** - federally qualified health center

**ICF/DD** - intermediate care facility for the developmentally disabled

**IPPS** - inpatient prospective payment system

**IRF** - inpatient rehabilitation facility

**LTC** - long-term care

**LTCH** - long-term care hospital

**OPPS** - outpatient prospective payment system

**PHE** - public health emergency

**QAPI** - quality assessment and performance improvement

**SNF** - skilled-nursing facility

**SPA** - state plan amendment

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Already Expired Flexibilities</b>					
Alternative settings coverage	Allows facilities (e.g. hospitals, SNFs, ICF/DDs) to be reimbursed for services rendered in unlicensed settings, provided they meet reasonable standards.	Medi-Cal	1135 waiver	6/6/22	Expired before the end of the PHE pursuant to CMS guidance.
<b>Flexibilities That Will Expire Due to the End of the California State of Emergency</b>					
Space waiver	Waives all provisions related to the configuration and use of physical space and classification of beds in a hospital. Hospitals may reconfigure space as needed to accommodate observed or predicted patient surge, patient cohorting, modified infection and source control procedures, and other COVID-19-related mitigation strategies. Any changes must be restored to original conditions following expiration of the waiver.	CDPH	All Facility Letter 20-26.13	2/28/23	To request a program flexibility for physical space from CDPH: <ul style="list-style-type: none"> <li><a href="#">CDPH – Central Applications branch</a></li> <li><a href="#">Program flex – space request template</a></li> </ul> If your hospital is required to obtain approval from HCAI: <ul style="list-style-type: none"> <li><a href="#">CDPH-HCAI process</a></li> <li><a href="#">HCAI – Alternate Method of Compliance form</a></li> </ul>
Out-of-state medical personnel licensure waiver	Waives licensing requirements for out-of-state medical personnel to practice in California's health care facilities.	EMSA	EMSA waiver	2/28/23	
Prescriber dispensing COVID-19 antiviral medication to an emergency room patient	Waives provisions related to the prohibition against a prescriber dispensing medications to an emergency room patient under certain circumstances.	BOP	California State Board of Pharmacy Waiver	5/28/23	
Remote processing	Provides a waiver that allows "remote processing" or the entering of an order or prescription into a computer from outside of the pharmacy or hospital for a licensed pharmacy.	BOP	California State Board of Pharmacy Waiver	5/28/23	
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency</b>					
100-day drug supply	Waives 100-day limit on prescription drug supply without a treatment authorization request.	Medi-Cal	SPA 20-0024	5/11/23	
25-day average length of stay for LTCHs	Allows LTCHs to exclude patient stays where an LTCH admits or discharges patients in order to meet the demands of the emergency from the 25-day average length of stay requirement.	Medicare/ Medi-Cal	CMS blanket waiver	5/11/23	

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Acute inpatient housing of patients from distinct-part psychiatric units	Allows acute care hospitals with excluded distinct-part inpatient psychiatric units that, as a result of a disaster or emergency, need to relocate inpatients from the excluded distinct-part psychiatric unit to an acute care bed and unit.	Medicare/ Medi-Cal	Blanket waiver	5/11/23	
Acute inpatient housing of patients from distinct-part rehab units	Allows acute care hospitals with excluded distinct-part inpatient rehabilitation units that, as a result of a disaster or emergency, need to relocate inpatients from the excluded distinct-part rehabilitation unit to an acute care bed and unit.	Medicare/ Medi-Cal	Blanket waiver	5/11/23	
Critical access hospital rule waivers	Waives requirement that CAH beds be 25 or fewer and that stays do not surpass 96 hours.	Medicare/ Medi-Cal	Blanket waiver	5/11/23	
Distinct-part inpatient stays	Allows acute care hospitals to house acute care inpatients in excluded distinct-part units.	Medicare/ Medi-Cal	Blanket waiver	5/11/23	
EMS transport destinations	Expands the list of allowable destinations for ambulance transports to any destination that is able to provide treatment to the patient in a manner consistent with state and local Emergency Medical Services (EMS) protocols in use where the services are being furnished, including any location that is an alternative site determined to be part of a hospital, CAH or SNF, community mental health center, FQHC, physician's office, urgent care facility, ambulatory surgery centers, any other location furnishing dialysis services outside of the End Stage Renal Disease facility, and the beneficiary's home.	Medi-Cal	Blanket waiver	5/11/23	
Hospital flexibilities	Eases criteria for acute administrative day reimbursement in FFS, reduces required weekly hours of inpatient (occupational, physical, and speech) therapy, and changes medical necessity for supplemental oxygen provision.	Medi-Cal		5/11/23	
Hospital presumptive eligibility	Expands hospital presumptive eligibility to aged, blind, and disabled participants and allows two hospital presumptive eligibility periods within a year.	Medi-Cal	SPA 20-0024	5/11/23	Expansion to aged, blind, and disabled participants permanently extended. Eligibility will be limited to once per year following the expiration of the federal PHE.
Prior authorization waivers	Waives prior authorization requirements, extends preexisting authorizations, and maintains authorization for services already authorized within the FFS system.	Medi-Cal	1135 waiver	5/11/23	

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Reimbursement increases	Increases reimbursement to 100% of Medicare rates for clinical lab services, COVID-19 vaccine administration, and oxygen and respiratory DME; and increases reimbursement by 10% for LTC facilities, including ICF/DDs, freestanding and distinct-part SNFs, and subacute stays.	Medi-Cal	SPAs 20-0024, 20-0040, and 21-0016	5/11/23	Largely permanently extended, except for 10% rate increases for non-ICF/DD LTC facilities. Expiration of federal PHE applies for unextended component.
Streamlined provider enrollment	Relaxes requirements in federal regulations for the state to collect payment of application fees, conduct fingerprinting and criminal background checks, conduct site visits, and verify licensure requirements.	Medi-Cal	1135 waiver	10/11/23	Expires six months after the expiration of the federal PHE as part of the state budget.
Suspension of Medi-Cal eligibility redeterminations	Effectively prohibits Medicaid disenrollments except under limited circumstances, such as death or move out of state.	Medi-Cal	FFCRA Section 6008 and Consolidated Appropriations Act, 2023	3/31/23	Continuous coverage for children ages 0-5 was provisionally approved.
Telehealth flexibilities	Expands coverage and reimbursement for telehealth, including allowing appropriate Medi-Cal services to be delivered via telehealth. Allows telehealth for new as well as established patients, provides broad coverage of audio-only services, establishes payment parity with in-person services, and waives site limitations for health centers.	Medi-Cal	CMS blanket waivers & SPAs	5/11/23	Generally extended permanently, with certain exceptions (such as the ability to establish new patients via audio-only visits). Expiration of federal PHE applies for unextended components.
Waive limitations on prescribing privileges	Allows additional provider types to prescribe non-emergency medical transportation; home health services such as DME, medical supplies, and enteral nutrition; physical, occupational, and speech therapies; and prosthetics.	Medi-Cal	SPA 20-0040	5/11/23	DHCS intends to permanently extend prescribing authority for medical supplies to most advanced professionals. Expiration of federal PHE applies for unextended components.
Waive three-day hospitalization rule for SNF stays	Waives requirement for a three-day prior hospitalization for coverage of a SNF stay to provide temporary emergency coverage of SNF services without a qualifying hospital stay, for those people who need to be transferred as a result of the effect of a disaster or emergency.	Medicare/ Medi-Cal	Blanket waiver	5/11/23	
Increases reimbursement for patients diagnosed with COVID-19	20% increase to Medicare Severity Diagnosis Related Groups relative weight for inpatients diagnosed with COVID-19.	Medicare	Section 3710 of the CARES Act	5/11/23	
Hospital Without Walls waivers: CAH status and location	Waives the requirement at 485.610(b) that the CAH be located in a rural area, or an area being treated as rural, allowing the CAHs flexibility in the establishment of surge site locations.	Medicare	CMS waiver	5/11/23	

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Hospital Without Walls waivers: Care for excluded inpatient psychiatric unit and rehabilitation unit patients in the acute care unit of a hospital	Waives requirements to allow acute care hospitals with excluded distinct-part inpatient psychiatric or rehabilitation units that, as a result of a disaster or emergency, need to relocate inpatients from the excluded distinct-part unit to an acute care bed and unit.	Medicare	CMS waiver	5/11/23	
Hospital Without Walls waivers: Critical access hospital bed count and length of stay	Waives the Medicare requirements that CAHs limit the number of beds to 25, and that the length of stay be limited to 96 hours under the Medicare conditions of participation regarding number of beds and length of stay at 42 CFR §485.620.	Medicare	CMS waiver	5/11/23	
Hospital Without Walls waivers: Expanded ability for hospitals to offer swing beds	Waives requirements to allow hospitals to establish SNF swing beds, payable under the SNF prospective payment system, to provide additional options for hospitals with patients who no longer require acute care, but are unable to find placement in a SNF.	Medicare	1135 waiver	5/11/23	
Hospital Without Walls waivers: Hospital outpatient use of provider-based departments as temporary expansion sites	Waives certain requirements under the Medicare conditions of participation at 42 CFR §482.41 and §485.623 (as noted above) and the provider-based department requirements at 42 CFR §413.65 to allow hospitals to expand capacity by creating new, or relocating existing, provider-based departments, which can include the patient's home.	Medicare	CMS waiver	5/11/23	
Hospital Without Walls waivers: Hospital-only remote outpatient therapy and education services	Allows hospitals to provide behavioral health and education services furnished by hospital-employed counselors or other professionals who cannot bill Medicare directly for their professional services. This includes partial hospitalization services. These services may be furnished to a beneficiary in their home when the beneficiary is registered as an outpatient of the hospital and the hospital considers the beneficiary's home to be a provider-based department of the hospital.	Medicare	CMS waiver	5/11/23	
Hospital Without Walls waivers: Housing acute- care patients in excluded distinct-part units	Waives requirements to allow acute-care hospitals to house acute-care inpatients in excluded distinct-part units, where the distinct-part unit's beds are appropriate for acute-care inpatients. The IPPS hospital should bill for the care and annotate the patient's medical record to indicate the patient is an acute-care inpatient being housed in the excluded unit because of capacity issues related to the disaster or emergency.	Medicare	CMS waiver	5/11/23	

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Hospital Without Walls waivers: Inpatient rehabilitation facilities regarding the 60% rule	Allows IRFs to exclude patients from the freestanding hospital's, or excluded distinct-part unit's, inpatient population for purposes of calculating the applicable thresholds associated with the requirements to receive payment as an IRF (commonly referred to as the 60% rule), if an IRF admits a patient solely to respond to the emergency and the patient's medical record properly identifies the patient as such.	Medicare	CMS waiver	5/11/23	
Hospital Without Walls waivers: Off-site patient screening	Partially waives the enforcement of section 1867(a) of the Social Security Act (the Emergency Medical Treatment and Active Labor Act, or EMTALA). This allows hospitals, psychiatric hospitals, and CAHs to screen patients at a location offsite from the hospital's campus to prevent the spread of COVID-19, while remaining consistent with the state emergency preparedness or pandemic plan.	Medicare	Waivers	5/11/23	
Hospital Without Walls waivers: Physical environment	Waives certain physical environment requirements under the Medicare conditions of participation at 42 CFR §482.41 and 42 CFR §485.623 to allow for increased flexibilities for surge capacity and patient quarantine at hospitals, psychiatric hospitals, and CAHs as a result of COVID-19. CMS has permitted facility and non-facility space that is not normally used for patient care to be utilized for patient care or quarantine, provided the location is approved by the state (ensuring that safety and comfort for patients and staff are sufficiently addressed), and is consistent with the state's emergency preparedness or pandemic plan.	Medicare	Waivers	5/11/23	
Hospital Without Walls waivers: Telemedicine medical staff requirements	Waives the provisions related to telemedicine for hospitals and CAHs at 42 CFR 482.12(a)(8)-(9) and 42 CFR 485.616(c), making it easier for telemedicine services to be furnished to the hospital's patients through an agreement with an off-site hospital.	Medicare	Waivers	5/11/23	
Medicare telehealth: Hospital originating site facility fee for professional services furnished via telehealth	Allows the hospital to bill under the OPDS for the originating site facility fee associated with the telehealth service. When 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 COVID-19 PHE.	Medicare	Waivers	5/11/23	The physician or practitioner is paid for the service at the facility rate, which does not include payment for resources, such as clinical staff, supplies, or office overhead, since those things are usually supplied by the hospital outpatient department.

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Medicare workforce waivers: Anesthesia services	Waives the requirements that a CRNA is under the supervision of a physician, allowing CRNAs to function to the fullest extent of their licensure.	Medicare	Waivers	5/11/23	This waiver applies to hospitals, CAHs, and ASCs. Implementation must remain consistent with the state's pandemic/emergency plan.
Medicare workforce waivers: CAH personnel qualifications	Waives the minimum personnel qualifications for clinical nurse specialist, nurse practitioners, and physician assistants described at 42 CFR 485.604(a)(2); 42 CFR 485.604(b)(1)-(3); and 42 C.F.R 485.604(c)(1)(3).	Medicare	Waivers	5/11/23	Clinical nurse specialists, nurse practitioners, and physician assistants still have to meet state requirements for licensure and scope of practice, but not additional federal requirements that may exceed state requirements.
Medicare workforce waivers: CAH staff licensure	Defers to staff licensure, certification, or registration to state law by waiving 42 CFR §485.608(d) regarding the requirement that staff of the CAH be licensed, certified, or registered in accordance with applicable federal, state, and local laws and regulations.	Medicare	Waivers	5/11/23	This waiver will provide maximum flexibility for CAHs to use all available clinicians. These flexibilities may be implemented as long as they are consistent with a state's emergency preparedness or pandemic plan.
Medicare workforce waivers: Medical staff requirements	Waives the medical staff requirements at 42 CFR §482.22(a)(1)-(4) to allow for physicians, whose privileges would have expired, to continue practicing at the hospital and for new physicians to be able to practice in the hospital before full medical staff/governing body review and approval to address workforce concerns related to COVID-19. Waives §482.22(a)(1)-(4) regarding details of the credentialing and privileging process.	Medicare	Waivers	5/11/23	
Medicare workforce waivers: Physician services	Waives 482.12(c)(1)-(2) and §482.12(c)(4), which requires that Medicare patients be under the care of a physician. This allows hospitals to use other practitioners, such as physician's assistants and nurse practitioners to the fullest extent possible.	Medicare	Waivers	5/11/23	This waiver has been implemented while remaining consistent with a state's emergency preparedness or pandemic plan.
Medicare workforce waivers: Respiratory care services	Waives the requirement at 42 CFR 482.57(b)(1) that hospitals designate, in writing, the personnel qualified to perform specific respiratory care procedures and the amount of supervision required for personnel to carry out specific procedures.	Medicare	Waivers	5/11/23	This flexibility has been implemented while remaining consistent with a state or pandemic/emergency plan.

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Medicare workforce waivers: Responsibilities of physicians in CAHs	Waives the requirement for CAHs that a doctor of medicine or osteopathy be physically present to provide medical direction, consultation, and supervision for the services provided in the CAH at § 485.631(b)(2).	Medicare	Waivers	5/11/23	CMS is retaining the regulatory language in the second part of the requirement at § 485.631(b)(2) that a physician be available “through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral.”
Specific Life Safety Code (LSC) for hospitals and CAHs	Waives and modifies particular waivers for hospitals related to alcohol-based rub dispensers, fire drills, and temporary construction.	Medicare	Waivers	5/11/23	
Waivers to reduce burden: “Stark Law” waivers	<p>Permits the following flexibilities related to referrals and the submission of related claims that would otherwise violate the Stark Law, provided all waiver requirements are met:</p> <ul style="list-style-type: none"> <li>• Hospitals and other health care providers can pay above or below fair market value for the personal services of a physician (or an immediate family member of a physician), and parties could pay below fair market value to rent equipment or purchase items or services.</li> <li>• Health care providers can support each other financially to ensure continuity of health care operations.</li> <li>• Hospitals can provide benefits to their medical staffs, such as multiple daily meals, laundry service to launder soiled personal clothing, or child care services while the physicians are at the hospital and engaging in activities that benefited the hospital and its patients.</li> <li>• Health care providers can offer certain items and services that are solely related to COVID-19 purposes (as defined in the waivers), even when the provision of the items or services would exceed the annual non-monetary compensation cap.</li> </ul>	Medicare	Waivers	5/11/23	
Waivers to reduce burden: Flexibility in Patient Self-Determination Act requirements (advance directives)	Waives the requirements at section 1902(a)(58) and 1902(w)(1)(A) for Medicaid, 1852(i) (for Medicare Advantage), and 1866(f) and 42 CFR 489.102 for Medicare, which require hospitals and CAHs to provide information about its advance directive policies to patients.	Medicare	Waivers	5/11/23	

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Waivers to reduce burden: Limit discharge planning for hospitals and CAHs	Waives detailed regulatory requirements to provide information regarding discharge planning, as outlined in 42 CFR §482.43(a)(8), §482.61(e), and 485.642(a)(8) to allow hospitals and CAHs more time to focus on increasing care demands.	Medicare	Waivers	5/11/23	Discharge planning has been focusing on ensuring that patients are discharged to an appropriate setting with the necessary medical information and goals of care.
Waivers to reduce burden: Medical records	Waives 42 CFR §482.24(a) through (c), which cover the subjects of the organization and staffing of the medical records department, requirements for the form and content of the medical record, and record retention requirements. Also waives requirements under 42 CFR §482.24(c)(4)(viii) related to medical records to allow flexibility in completion of medical records within 30 days following discharge, and for CAHs that all medical records must be promptly completed.	Medicare	Waivers	5/11/23	
Waivers to reduce burden: Modify discharge planning for hospitals	Waives certain, more detailed, requirements related to hospital discharge planning for post-acute care services at 42 CFR §482.43(c), so as to expedite the safe discharge and movement of patients among care settings, and to be responsive to fluid situations in various areas of the country. Waives certain requirements for those patients discharged home and referred for home health agency services, or for those patients transferred to a SNF for post-hospital extended care services, or transferred to an IRF or LTCH for specialized hospital services.	Medicare	Waivers	5/11/23	
Waivers to reduce burden: Nursing services	Waives the provision at 42 CFR 482.23(b)(4), 42 CFR 482.23(b)(7), and 485.635(d)(4), which requires the nursing staff to develop and keep current a nursing care plan for each patient, and the provision that requires the hospital to have policies and procedures in place establishing which outpatient departments are not required to have a registered nurse present.	Medicare	Waivers	5/11/23	
Waivers to reduce burden: Paperwork requirements	<p>Waives certain specific paperwork requirements under this section only for hospitals that are considered to be impacted by a widespread outbreak of COVID-19, as determined by CDC guidelines. Hospitals that are located in a state that has widespread confirmed cases are not required to meet the following requirements:</p> <ul style="list-style-type: none"> <li>• 42 CFR §482.13(d)(2) with respect to timeframes in providing a copy of a medical record</li> <li>• 42 CFR §482.13(h) related to patient visitation, including the requirement to have written policies and procedures on visitation of patients who are in COVID-19 isolation and quarantine processes</li> <li>• 42 CFR §482.13(e)(1)(ii) regarding seclusion</li> </ul>	Medicare	Waivers	5/11/23	



FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Will Expire Due to the End of the Federal Public Health Emergency (continued)</b>					
Waivers to reduce burden: Quality assessment and performance improvement program	Waives 482.21(a)-(d) and (f), and 485.641(a), (b), and (d), which provide details on the scope of the program, the incorporation, and setting priorities for the program's performance improvement activities, and integrated QAPI programs (for hospitals that are a part of a hospital system).	Medicare	Waivers	5/11/23	
Waivers to reduce burden: Reporting requirements	Waives reporting requirements at §482.13(g) (1)(i)-(ii), which require hospitals to report patients in an intensive care unit whose death is caused by their disease process but who required soft wrist restraints to prevent pulling tubes/IVs, to allow reporting later than close of business next business day, provided any death where the restraint may have contributed is continued to be reported within standard time limits.	Medicare	Waivers	5/11/23	
Waivers to reduce burden: Verbal orders	Waives the requirements of 42 CFR §482.23, §482.24 and §485.635(d)(3) to allow for additional flexibilities related to verbal orders where readback verification is still required, but authentication may occur later than 48 hours.	Medicare	Waivers	5/11/23	
<b>Flexibilities That Have Been or Are Intended to Be Extended Beyond the Close of the COVID-19 Emergency</b>					
COVID-19 testing, vaccination, and treatment coverage	Requires health plans to cover COVID-19 testing, vaccination, and treatment without cost sharing, regardless of in-network status.	DMHC	FFCRA, CARES Act, and Chapter 545 of 2022 (SB 1473, Pan)	7/11/23	State statute allows plans to impose cost sharing for COVID-19 testing, vaccination, and treatment with out-of-network providers and to require "reasonable" reimbursement rates where there is no contracted rate beginning six months after the expiration of the federal PHE.
FMAP increase	Increases by 6.2 percentage points the state's standard Medicaid FMAP, with an accompanying 4.3 percentage point increase in the CHIP FMAP.	Medi-Cal	FFCRA Section 6008 and Consolidated Appropriations Act, 2023	12/31/23	Phases FMAP increase down, in percentage-point terms, to 5% on 4/1/23, 2.5% on 7/1/23, 1.5% on 10/1/23, and fully expires on 12/31/23. To qualify for FMAP increase beginning on 4/1/23, California must resume Medi-Cal eligibility redeterminations, attempt to update enrollee contact information, and make a good-faith effort to contact enrollees before they are determined ineligible.

FLEXIBILITY	DESCRIPTION	DEPARTMENT/ PROGRAM	AUTHORITY FOR THE FLEXIBILITY	ANTICIPATED EXPIRATION DATE	NOTES
<b>Flexibilities That Have Been or Are Intended to Be Extended Beyond the Close of the COVID-19 Emergency (continued)</b>					
COVID-19 treatment	Requires Medicaid coverage of COVID-19 treatment without cost sharing.	Medi-Cal	ARP Section 9811	6/30/24	Expires the end of first quarter that starts one year after the end of the federal PHE.
Medicare telehealth: Audio-only telehealth for certain services	Allows the use of audio-only telephone evaluation and management services, and behavioral health counseling and educational services. Unless provided otherwise, other services included on the Medicare telehealth services list must be furnished using, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant-site physician or practitioner.	Medicare	CARES Act and Consolidated Appropriations Act of 2023	12/31/24	Expires 151 days after end of PHE.
Medicare telehealth: Eligible practitioners	Expands the types of health care professionals who can furnish distant-site telehealth services to include all those who are eligible to bill Medicare for their professional services. This allows health care professionals who were previously ineligible to furnish and bill for Medicare telehealth services, including physical therapists, occupational therapists, speech language pathologists, and others, to receive payment for Medicare telehealth services.	Medicare	CARES Act and Consolidated Appropriations Act of 2023	12/31/24	Expires 151 days after end of PHE.
Medicare telehealth: Geographic site restrictions	Allows beneficiaries in all areas of the country to receive telehealth services, including at their home. Under the waiver, limitations on where Medicare patients are eligible for telehealth will be removed during the emergency. In particular, patients outside of rural areas and patients in their homes will be eligible for telehealth services.	Medicare	CARES Act and Consolidated Appropriations Act of 2023	12/31/24	Expires 151 days after end of PHE.
Acute Hospital at Home Program	Allows patients who required acute inpatient care to be seen outside of hospital settings.	Medi-Cal	Acute Hospital Care at Home Individual Waiver, Consolidated Appropriations Act of 2023 and state emergency declaration	12/31/24	While federal authorization for the program has been extended through the end of 2024, CDPH program flexes or state statutory changes will be needed for the program to continue after the expiration of the state emergency.
Transfer of patients pursuant to a public health order	When a health care facility transfers a health plan enrollee pursuant to a covered public health order related to COVID-19, health plans are prohibited from requiring prior authorization and other requirements that delay or prevent the transfer, must cover medically necessary costs of moving the enrollee, must reimburse the facility for all medically necessary costs regardless of contract status at contracted rate or reasonable and customary value, and may not impose higher cost sharing than if the enrollee remained at a contracted facility.	DMHC	Emergency regulation found at CCR 1300.67.02		Intent is to adopt as permanent regulation (otherwise will end with the California state of emergency).

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<b>Flexibilities That Have Been or Are Intended to Be Extended Beyond the Close of the COVID-19 Emergency (continued)</b>					
At-home COVID-19 tests	Ensure coverage of at-home tests without cost sharing for all Medi-Cal beneficiaries.	Medi-Cal	ARP Section 9811		If SPA is not approved, expires end of first quarter that starts one year after the end of the federal PHE.
COVID-19 testing vaccination	Requires Medicaid coverage of COVID-19 vaccines and their administration without cost sharing.	Medi-Cal	ARP Section 9811		
Diagnostic services in non-office settings	Provides coverage for laboratory and X-ray services provided in non-office settings such as mobile testing sites, parking lots, and other temporary locations.	Medi-Cal	SPA 20-0025		If extension is not ultimately authorized, expires at the end of the federal PHE.
Group/at-home COVID-19 vaccine administration	Increases reimbursement for COVID-19 vaccine administration to 100% of Medicare rates when administered at in-home group settings.	Medi-Cal	SPA 20-0040		If SPA is not approved, expires at the end of the federal PHE.
Health center flexibilities	Provides a \$67 supplemental payment for COVID-19 vaccine-only visits, 100% Medicare reimbursement for Indian Health Services-Memorandum of Agreement clinics, and coverage for Associate clinical social worker and Associate marriage and family therapist services.	Medi-Cal	SPAs 21-0020 and 20-0024		If extension is not ultimately authorized, expires at the end of the federal PHE.
Over-the-counter acetaminophen cough and cold products	Covers such products within Medi-Cal.	Medi-Cal	SPA 20-0024		
Pediatric vaccine counseling-only visits	Establishes visits as a Medi-Cal benefit for children and adults.	Medi-Cal	SPA 20-0040		If SPA is not approved, expires at the end of the federal PHE.
Pharmacies as qualified providers of COVID-19 vaccinations	Allows pharmacy technicians and interns acting within their scope of practice to administer COVID-19 vaccinations.	Medi-Cal	SPA 20-0040		If SPA is not approved, expires at the end of the federal PHE.
School-based COVID-19 testing carve out	Reimburse COVID-19 testing in schools is via FFS rather than managed care.	Medi-Cal	1115 waiver amendment		If extension is not ultimately authorized, expires at the end of the federal PHE.

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**DME** - durable medical equipment  
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**FFS** - fee-for-service  
**FMAP** - Federal Medical Assistance Percentage  
**FQHC** - federally qualified health center  
**ICF/DD** - intermediate care facility for the developmentally disabled  
**IPPS** - inpatient prospective payment system  
**IRF** - inpatient rehabilitation facility  
**LTC** - long-term care

**LTCH** - long-term care hospital  
**OPPS** - outpatient prospective payment system  
**PHE** - public health emergency  
**QAPI** - quality assessment and performance improvement  
**SNF** - skilled-nursing facility  
**SPA** - state plan amendment