



MARCH 3, 2023

NEW ENGLAND COUNCIL PRIORITIES & RECOMMENDATIONS FOR PUBLIC HEALTH EMERGENCY WAIVERS

CONTACT

SEAN MALONE

Director, Federal Affairs

SMALONE@NEWENGLANDCOUNCIL.COM



On Jan. 30, 2023, the Biden Administration **announced** it will end the COVID-19 public health emergency (and national emergency) declarations on May 11, 2023. There are numerous implications to ending the PHE declaration, which provides the federal government flexibility to waive or modify certain requirements in a range of areas, including in the Medicare, Medicaid, and CHIP programs, and in private health insurance.

Many New England Council members have highlighted the immediate and long-term benefits that the flexibility associated with the PHE has provided, as well as spotlighted the many new tools that were created as a direct response to the COVID-19 PHE.

Specifically, developments in telehealth, workforce practitioner practice limitations and licensure requirements, as well as quality of patient care have all seen major developments over the past three years. Below is a list of PHE waivers that the New England Council feels have made a dramatic impact on the quality and access to care in the region. In short, you will find that we support waivers that impact access to care, substance use, and behavioral health.

Telehealth & Preserving Access to Virtual Care

- **Telehealth Waivers.** A number of telehealth flexibilities were extended by Congress until December 31, 2024. However, we urge Congress to make these waivers permanent, as they represent critical advancements in care delivery. We also support a permanent extension of the Hospital at Home demonstration program, which has proven successful in delivering care to patients in their homes.
- **In-Person Requirement for Behavioral Telehealth** – During the PHE, Congress waived the in-person requirement for behavioral telehealth visits. When the PHE expires, a person must have an in-person visit within the first 6 months of an initial behavioral telehealth visit, and every 12 months thereafter. The waiver expires Dec. 31, 2024.
 - We recommend Congress permanently eliminate the in-person requirement for a behavioral telehealth visit.



Home address reporting requirement. We urge Congress and the administration to work together to create an alternative to the forthcoming requirement that providers practicing telehealth from home be required to report their home addresses on their Medicare enrollment forms. In a time of heightened mistrust in the health care system and increasing incidents of violence against hospital staff,

Providers are fairly concerned about their home addresses becoming public information. If these providers stop practicing telehealth from home, there will be significant implications for patient access to services.

- o We recommend CMS permanently eliminate the requirement for a provider's home address for telehealth services and instead allow providers to designate a primary office location or billing office.
 - o We recommend CMS directly communicate to providers before the end of the PHE explaining how it maintains the security and privacy of provider information, specifically provider home address information.
- Remote prescribing of controlled substances. We urge the administration to act quickly to propose and finalize guidance that will allow the continued prescribing of controlled substances via telehealth outside of a public health emergency. Remote controlled substance prescribing has expanded access to needed services, especially related to addiction and mental health, and is needed to continue to address the serious behavioral health crisis we are currently facing.
 - o We recommend DEA expedite its rulemaking process to avoid gaps in patient access and allow for telehealth prescribing of controlled substances without an in-person visit and for audio-only telehealth visits.
- Licensure. We were pleased to see President Biden's state of the union commitment to tripling funding to support the provision of mental health services across state lines through license reciprocity. In New England, allowing all telehealth services to be practiced across state lines is critical. With a number of small states in our region, residents regularly cross state lines to access the care they need, and being able to stay in touch with preferred providers via telehealth from their homes is critical.



- Remote pathology. We appreciate CMS's statement that it will allow pathologists to continue practicing remotely after the end of the public health emergency, as this is critical to preserving timely access to pathology services for patients. However, we would appreciate more guidance from CMS as to how long this will be available as we are concerned about this being terminated without adequate warning for providers. We would encourage CMS to make allowing pathology to be practiced remotely permanent.
 - o We urge Congress and/or CMS to make remote pathology permanent and not solely dependent on CMS' enforcement discretion.

Hospital Capacity & Efficient Throughput

- Continued use of alternative space. The New England region continues to experience severe capacity constraints in emergency departments and medical/surgical units. The flexibility provided by CMS to use alternative physical space continues to be critical to addressing patient needs. We urge CMS to use a regional approach to lifting this waiver, and allowing alternative space to continue to be used in regions where hospital capacity is strained.
 - o The region continues to experience considerable capacity challenges due to a combination of COVID-19 and other respiratory viruses, increased acuity due to deferred care, serious mental and behavioral health needs, as well as a recent catastrophic fire at Signature Brockton Hospital which resulted in the redistribution of inpatients across the region. Eliminating the allowable use of alternative space would result in substantially diminished hospital capacity in the region.
 - o We recommend that CMS extend beyond the PHE the Life and Safety Code waivers for hospitals, or geographic regions, that are experiencing a significant capacity crisis.
- Transfers to skilled nursing care. We urge Congress or the administration to act quickly to eliminate the archaic 3-day inpatient hospital stay requirement to trigger Medicare coverage of a skilled nursing facility (SNF) stay. Throughput challenges persist in the New England region and any barriers to transferring patients to step-down services will put additional pressure on inpatient hospital capacity.



o We recommend that CMS extend beyond the PHE the 3-Day Hospital Stay waiver for hospitals, or geographic regions, that are experiencing a significant capacity crisis.

COVID-19 Tests, Vaccines and Treatment

- Through a variety of mechanisms, the PHE provides for patient access to free COVID-19 tests, vaccines, and treatments. COVID-19 Vaccines: Fortunately, the end of the PHE will not impact the ability of eligible individuals 6 months and older to continue to access COVID-19 vaccines for free under the existing USG distribution program. Moreover, as we transition to a more traditional, commercial vaccine market later this year, people with health insurance will continue to have access to COVID-19 vaccines without cost, whether under commercial health plans, Medicare, Medicaid, or the Vaccines for Children program.

o However, uninsured adults will face access challenges due to cost. We recommend the federal government consider providing some COVID-19 vaccines for free to uninsured adults under the Section 317 program.

- Under the PHE, health plans were required to cover up to 8 COVID-19 tests purchased over the counter without cost-sharing, as well as requires free tests and testing-related services without cost sharing, prior authorization, or other medical management requirements in a healthcare provider's office. Separately, the Biden Administration created the Test-to-Treat program so that there were locations in communities around the country through which a consumer could test for COVID-19, and if positive, be considered a candidate to receive treatment at the location.

o We recommend the continuation of federal and state Test-to-Treat programs, and the distribution of free tests, so that access to testing is not a barrier to seeking timely care, particularly for the uninsured or underinsured.



The following NEC members are available to speak in more detail or answer any questions you may have.

Contact List

BETH ISRAEL LAHEY HEALTH

Malisa Schuyler, Vice President of Government Affairs

MALISA.SCHUYLER@BILH.ORG

BLUE CROSS BLUE SHIELD MASSACHUSETTS

Deirdre Savage, Vice President of Government and Regulatory Affairs

DEIRDRE.SAVAGE@BCBSMA.COM

CODMAN SQUARE HEALTH CENTER

Anthony Stankiewicz, Chief of Staff & Chief Advancement Officer

ANTHONY.STANKIEWICZ@CODMAN.ORG

CONFERENCE OF BOSTON TEACHING HOSPITALS

Anna Esten, Government and Community Affairs Specialist

AESTEN@COBTH.ORG

DARTMOUTH HEALTH

Matthew Houde, Vice President, Government Relations

MATTHEW.S.HOUDE@HITCHCOCK.ORG

Courtney Tanner, Director, Government Relations

COURTNEY.TANNER@HITCHCOCK.ORG

FALLON HEALTH

Christie Bik, Director of Government Affairs and Public Policy

CHRISTIENNE.BIK@FALLONHEALTH.ORG

GREATER LAWRENCE FAMILY HEALTH CENTER

Dr. Guy Fish, President, and Chief Executive Officer

GFISH@GLFHC.ORG



Steven Crowell, Director, Development & Marketing
SCROWELL@GLFHC.ORG

LOWELL COMMUNITY HEALTH CENTER

Brent Carney, Director of Marketing and Communications
BRENTCA@LCHEALTH.ORG

Clare Gunther, Chief Advancement and Communications Officer
CLAREGU@LCHEALTH.ORG

MASSACHUSETTS ASSOCIATION OF HEALTH PLANS

Lora M. Pellegrini, President and CEO
PELLEGRINI@MAHP.COM

Liz Leahy, Chief of Staff, Vice President of Advocacy and Engagement
LEAHY@MAHP.COM

Sarah Chiaramida, Senior Vice President of Health Policy, General Counsel
CHIARAMIDA@MAHP.COM

MASS GENERAL BRIGHAM

Aimee Golbitz - Director of Public Policy and Research
AGOLBITZ@PARTNERS.ORG

NEW ENGLAND COUNCIL

Sean Malone, Director of Federal Affairs
SMALONE@NEWENGLANDCOUNCIL.COM

Emily Heisig, Senior Vice President, Communications & Federal Affairs
EHEISIG@NEWENGLANDCOUNCIL.COM

NETWORK FOR EXCELLENCE IN HEALTH INNOVATION

Tom Hubbard, Senior Vice President of Policy Research
THUBBARD@NEHI-US.ORG



PFIZER

Molly K. Williams, Eastern Region Director, Alliance Development

MOLLY.WILLIAMS@PFIZER.COM

RONALD MCDONALD HOUSE CHARITIES® OF NEW ENGLAND

Gretchen Manning, Chief Executive Officer

GMANNING@RMHCNE.ORG

WORK INC.

Andrea Cook, Vice President of Communications & Community Relations

ANDREA.COOK@WORKINC.ORG