

## **CMS Posts Additional End of the PHE Guidance for Home Health and Hospice Providers**

**CMS posted [Memo QSO-23-13-ALL](#), Guidance for the Expiration of the COVID-19 Public Health Emergency (PHE) on May 1, 2023.**

The summary of the memo includes:

Social Security Act Section 1135 emergency waivers for health care providers will terminate with the end of the COVID-19 Public Health Emergency (PHE) on May 11, 2023. • Certain regulations or other policies included in Interim Final Rules with Comments (IFCs) will be modified with the ending of the PHE. Certain policies, such as the Acute Hospital at Home initiative and telehealth flexibilities have been extended by Congress through December 31, 2024.

### Staff Vaccination Requirements

CMS will soon end the requirement that covered providers and suppliers establish policies and procedures for staff vaccination. CMS will share more details regarding ending this requirement at the anticipated end of the public health emergency.

### Emergency Preparedness

Providers/suppliers are expected to return to normal operating status and comply with the regulatory requirements for emergency preparedness with the conclusion of the PHE. This includes conducting testing exercises based on the regulatory requirements for specific provider/supplier types.

CMS included guidance for home health, hospice, and other provider types related to specific waivers for each provider type. If you have a hospice inpatient unit, there is also information related to the Life Safety Code waiver.

CMS acknowledged concerns raised by stakeholders related to staffing challenges that continued during the PHE. These waivers were intended to be temporary, but we recognize that some providers/suppliers are still constrained by workforce shortages. CMS will utilize our enforcement discretion on a case-by-case basis for circumstances beyond the provider's/supplier's control according to the timeframes for specific waivers. This memo provides additional clarification for surveyors based on information previously issued via the [CMS press release](#) in February 2023 referencing the provider-specific fact sheets.

### HHA/Hospice Training and Assessment of Aides - 42 CFR §418.76(h)(2) and 42 CFR §484.80(h)(1)(iii)

CMS waived the requirement for hospices and HHAs that a registered nurse, or in the case of an HHA a registered nurse or other appropriate skilled professional (physical

therapist/occupational therapist, speech language pathologist), make an annual onsite Page 20 of 23 supervisory visit (direct observation) for each aide that provides services on behalf of the agency. <https://www.govinfo.gov/content/pkg/FR-2021-11-09/pdf/2021-23993.pdf>

Surveyor determinations of a provider's compliance for the following requirement will begin at the end of the first full quarter after the conclusion of the PHE on September 30, 2023:

Hospice Annual Training - 42 CFR §418.100(g)(3)

CMS waived the requirement for hospices to annually assess the skills and competence of all individuals furnishing care and provide in-service training and education programs where required. Selected hospice staff must complete training and have their competency evaluated by the end of the first full quarter after the declaration of the PHE concludes.

Surveyor determinations of a provider's/supplier's compliance with the following requirements will begin at the end of the calendar year that the PHE ends which is December 31, 2023:

HHA/Hospice 12-hour annual in-service training requirement for home health aides - 42 CFR. §484.80(d) & hospice aides - 42 CFR 418.76(d).

CMS waived the requirement that home health agencies and hospices must assure that each aide receives 12 hours of in-service training in a 12-month period.

Hospice Waived requirement for hospices to use volunteers – 42 CFR §418.78(e)

CMS waived the requirement that hospices must use volunteers (at least 5% of total patient care hours of all paid hospice employees). It is anticipated that hospice volunteer availability and use may still be reduced.

For information regarding waivers or flexibilities not directly related to the health and safety requirements for LTC and ACC providers listed in this memorandum, please continue to monitor the [CMS Emergencies Page](#) for the most up to date information.