



Federal Declarations and Flexibilities Supporting Medicaid and CHIP COVID-19 Response Efforts
Effective and Expiration Dates
Updated June 17, 2020

To help states respond to the ongoing coronavirus (COVID-19) pandemic, the White House, the U.S. Department of Health and Human Services (HHS), and the Centers for Medicare and Medicaid Services (CMS) have invoked various emergency authorities that allow for temporary flexibilities in the Medicaid and the Children's Health Insurance Program (CHIP) programs. Congress also has passed legislation that provides additional federal support for state Medicaid programs, subject to certain conditions. The below table describes the effective dates of these various provisions as well as the expiration timeline dictated by law or agency guidance; it also includes current end dates, which are subject to change as federal and state officials take actions to renew or terminate particular authorities. This SHVS product has been updated to reflect CMS's June 16 [Key Dates for Termination of COVID-19 Flexibilities Table](#) (see slide five).

Declaration/Flexibility	Effective Date	Expiration Timeline	Current End Date <i>(as of publication date above)</i>	Citations
Federal Emergency/Disaster Declarations				
The HHS Public Health Emergency (PHE) Declaration	January 27 <i>(issued January 31)</i> Last renewed: April 26 <i>(issued April 21)</i>	May be renewed every 90 days by HHS	July 24	Public Health Service Act § 319(a) <i>[42 USC § 247d(a)]</i>
The President's National Emergency Declaration	March 1 <i>(issued March 13)</i>	May be terminated by the President or by joint resolution of Congress ⁱ	None specified	National Emergencies Act § 202(a) <i>[50 U.S.C. § 1622(a)]</i>
The President's Stafford Act Declarations	Nationwide emergency declaration issued March 13 <i>(no effective date specified)</i> State "major disaster" declarations are generally effective January 20	Federal Emergency Management Agency (FEMA) determines the start and end dates of the "incident period"	None specified in either the nationwide or state-by-state declarations	Stafford Act §§ 401 (major disaster), 501 (emergency) <i>[42 USC §§ 5170, 5191]</i> 44 CFR § 206.32(f)
Temporary Medicaid/CHIP Flexibilities for COVID-19 Response Efforts				
Section 1135 Waiver	March 1 <i>(or a later date requested by the state and approved by CMS)ⁱⁱ</i>	End of the PHE, per CMS guidance ⁱⁱⁱ	July 24	Social Security Act (SSA) § 1135(e) <i>[42 USC § 1320b-5(e)]</i> CMS's Medicaid/CHIP FAQ
Medicaid Disaster Relief State Plan Amendment (SPA)	March 1 <i>(or a later date chosen by the state)^{iv}</i>	End of PHE <i>(or an earlier approved date chosen by the state)</i>	July 24 <i>(or an earlier date chosen by the state)</i>	Medicaid Disaster Relief SPA Template CMS's Medicaid/CHIP FAQ



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CHIP Disaster Relief SPA	Start of state or federally declared emergency (or a later date chosen by the state) ^v	End of the PHE or state-declared emergency (or an earlier date chosen by the state) ^{vi}	July 24 (or an earlier date chosen by the state, or later if the state-declared disaster continues)	CHIP Disaster Relief SPA Example CMS FAQ for state Medicaid agencies
Section 1915(c) Appendix K (for Medicaid home and community based services (HCBS) programs)	January 27 (or a later date chosen by the state)	One year from the effective date (or an earlier approved date chosen by the state); however, the end date can be no later than March 31, 2021 (the last day of the month in which the President executed a national emergency declaration)	January 26, 2021 (or an earlier date chosen by the state, or later if the state chose a later effective date)	Section 1915(c) Appendix K Template CMS Medicaid/CHIP FAQ
Emergency Section 1115 Waiver	March 1 (or a later date chosen by the state)	PHE + 60 days (or an earlier date approved in the waiver's Special Terms & Conditions (STCs))	September 22	COVID-19 Section 1115 Template
Key Provisions in the Families First Coronavirus Response Act (FFCRA, P.L. 116-127)				
Enhanced Federal Medicaid Assistance Percentage (FMAP)	January 1	End of the quarter in which the PHE ends	September 30	FFCRA § 6008(a)
<ul style="list-style-type: none"> Maintenance of Effort (MOE) Requirement 	January 1	End of the quarter in which PHE ends ^{vii}	September 30	FFCRA § 6008(b)(1) and (2)
<ul style="list-style-type: none"> Continuous Coverage Requirement 	March 18	End of the month in which the PHE ends	July 31	FFCRA § 6008(b)(3)
Coverage for the Optional COVID-19 Testing Eligibility Group	March 18 (or a later date chosen by the state)	End of the PHE ^{viii}	July 24	SSA §§1902(a)(10)(A)(ii)(XXIII) & (ss) [42 USC §§ 1396a(a)(10) & (ss)], as added/amended by FFCRA § 6004(a)(3) and CARES § 3716



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Notes

- ⁱ After the President declares a national emergency, Section 202(b) of the National Emergencies Act requires that, every six months, “each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.”
- ⁱⁱ HHS invoked the 1135 waiver authority on [March 13](#) with an effective date of March 1. All the 1135 waivers that have since been issued by HHS and CMS may thus have retroactive effect to March 1.
- ⁱⁱⁱ [CMS’s Medicaid/CHIP FAQ](#) states that 1135 waivers last until the end of the PHE. That guidance appears inconsistent with the text of section 1135, however. Section 1135(e) provides that emergency waivers can generally be extended up until the termination of either the PHE or the presidential emergency declaration (whichever comes first), but only if HHS renews the 1135 waiver authority every 60 days. (Applicable presidential emergency declarations can be made under the National Emergencies Act or the Stafford Act.) To date, HHS has not issued any renewal of the 1135 waiver authority.
- ^{iv} Typically, Medicaid SPAs may be effective no earlier than the first day of the quarter in which the SPA was submitted. With respect to Medicaid disaster relief SPAs, CMS will grant 1135 waivers that allow Medicaid SPAs to take effect before the start of the quarter in which the SPA was submitted (but no earlier than the start of the PHE).
- ^v According to CMS’s CHIP disaster relief [SPA example](#), states may activate their disaster relief scenarios in response to a disaster declared by the “Governor or FEMA.” [CMS’s Medicaid/CHIP FAQ](#) states that CHIP disaster relief SPAs may also be activated in response to the COVID-19 PHE. And in general, CHIP SPAs may have retroactive effect as far back as the beginning of the fiscal year in which the SPA was submitted, including SPAs that modify the state’s disaster relief scenarios. For that reason, [CMS’s Medicaid/CHIP FAQ](#) indicates that section 1135 authority is not needed to modify the submission date for SPAs that are submitted by the end of the fiscal year; presumably, however, CMS could grant an 1135 waiver to extend the retroactive date of a CHIP SPA into the prior fiscal year if needed, similar to CMS’s use of 1135 waivers to permit Medicaid SPAs to have a retroactive effective date in a previous quarter.
- ^{vi} Although [CMS’s Medicaid/CHIP FAQ](#) states that CHIP disaster relief SPAs terminate at the end of the PHE, CMS’s disaster relief [SPA example](#) and CMS’s prior practice suggest that states have flexibility to “de-activate” their disaster relief SPA authorities before the end of the disaster period, or to extend those authorities past the end of the PHE if another disaster declaration remains in effect as declared either by the state or by the President under the Stafford Act.
- ^{vii} [CMS’s FFCRA FAQ](#) states that all MOE requirements apply only until the end of the month in which the PHE ends. However, the text of FFCRA section 6008(b) states that, like the enhanced FMAP, the MOE requirements related to eligibility standards/methodologies/procedures and premiums apply until the end of the *quarter* in which the PHE ends, while the continuous coverage requirements apply until the end of the *month* in which the PHE ends (as noted in the chart).
- ^{viii} Although coverage for the optional eligibility group ends at the end of the PHE, states may need to keep this group enrolled (without coverage) until the end of the month in which the PHE period ends in order to comply with the continuous coverage conditions in FFCRA section 6008(b)(3), per [CMS’s Medicaid/CHIP FAQ](#).