



May 2023

The COVID-19 Federal Public Health Emergency Ended May 11.
What Will Be Different?

Did you know?

The federal public health emergency (PHE), related to COVID-19, expired on May 11, 2023. The PHE provided flexibilities to do the following three things (among others): 1) expand development and access to COVID-19 testing, treatment, and vaccinations, 2) promote virtual access to healthcare providers and treatment, and 3) maintain and expand access to health insurance coverage across multiple insurance markets.

Here is the latest!

The federal PHE was first issued by the Secretary of Health and Human Services under Section 319 of the Public Health Service Act on January 31, 2020. One of the dominant uses of the PHE was to require insurance carriers and public payers to cover testing, treatment, and vaccination of COVID-19 at no charge. Medicaid, Medicare, and private group health insurance carriers have all been required to cover these services at little to no cost to the enrollee. These requirements ended on May 11 for most health plans, which means free or low-cost testing and treatment could end, depending on the individual's source of insurance coverage.

The PHE also provided flexibility in reimbursement that exponentially expanded the availability of healthcare services via telehealth. This growth arose both from dramatic flexibility granted by Medicare and by parallel state waivers of reimbursement, licensure, and informed consent requirements on state-by-state bases. The availability of telehealth grew so profoundly that by mid-2020, telehealth claims accounted for [14% of all commercial claims](#), up from less than 1% in January of 2020. Although the telehealth coverage and reimbursement expansions were initiated by the public health emergency in Medicare, [many, but not all, have been extended through the end of 2024](#) by federal spending vehicles.

Finally, many provisions in the PHE provided continuous insurance coverage for those who would otherwise have lost their coverage in the normal course of business. These expansions in coverage ranged from additional flexibilities for obtaining COBRA coverage to requiring that

Medicaid programs maintain coverage for anyone who qualified for Medicaid throughout the remainder of the public health emergency, regardless of whether they continued to meet eligibility requirements.

What does this mean for New Hampshire?

New Hampshire commercial health insurance carriers will be free to make their own choices about what level of coverage to provide for COVID-19 testing and treatment services after May 11. There are roughly [492,000 lives](#) in New Hampshire in the commercial health insurance markets. For Medicaid, coverage for COVID-19 testing and treatment will remain in place until [September 2024](#).

Telehealth services will remain available in large-group and small group state regulated commercial health insurance plans and Medicaid in New Hampshire because the public health emergency ending at the federal level does not impact state law, which requires parity in coverage and reimbursement for telehealth services. [Recent legislation](#) explicitly protects the ability of providers to prescribe schedule II – IV controlled drugs via telehealth so long as a patient-provider relationship has been established.

Finally, the continuous coverage requirement for Medicaid ended on March 30, 2023, due to a federal spending bill passed late in 2022. That bill separated the Medicaid continuous enrollment requirement from the federal public health emergency. More information about NH Medicaid's return to regular operations can be found [on the NH DHHS website](#).