



## Hospice Blanket Waiver Chart

Updated 8/18/2022

In certain circumstances, the Secretary of the Department of Health and Human Services (HHS) can temporarily modify or waive certain Medicare, Medicaid, CHIP, or HIPAA requirements. When there's an emergency, sections 1135 or 1812(f) of the Social Security Act (SSA) allow CMS to issue blanket waivers to help beneficiaries access care.

On January 31, 2020, HHS Secretary Alex Azar declared a public health emergency due to COVID-19. This declaration covered a 90-day period and has been extended continuously since April 2020. Each extension covers 90 days.

We have created this chart to help providers understand what requirements have been waived for hospice agencies, and what the waiver means for operations. All waivers below are “blanket waivers” and providers do not need to apply for an individual or state-level waiver in order to take advantage of these flexibilities. These waivers are in effect for the duration of the federal public health emergency (PHE), unless otherwise noted.

As indicated in the chart, waivers which are still in place will end with the Public Health Emergency unless CMS terminates them early which is within their authority and which they have already done for a [number of waivers](#).

For more information, please visit the CMS Coronavirus Waivers & Flexibilities page: <https://www.cms.gov/coronavirus-waivers>

Waiver	What Does it Mean?	What do we need to know about the end-date of this waiver?
<i>Medicare telehealth during the emergency period – STATUORY</i>	Face-to-face encounters for purposes of patient recertification for the Medicare hospice benefit can be conducted via telehealth (audio-visual technology must be used).	<p><b>FY 2022 Omnibus Appropriations Package extends hospice face-to-face recertification telehealth waiver on 3/9/2022. The extension is for 151 Days After Final Day of PHE.</b></p> <p><b><a href="#">Updated guidance from 8/18/2022</a> states the waiver will expire at the end of the PHE which is inconsistent with passed legislation. <b>LeadingAge staff has reached out to CMS regarding the inconsistency.</b></b></p>

<p><i>Medicare telehealth during the emergency period – REGULATORY</i></p>	<p>Hospice providers can provide services to a Medicare patient receiving routine home care through telecommunications technology (including audio-only technology), if it is feasible and appropriate to do so. This includes the initial and comprehensive assessments, but hospices must be mindful of being able to fulfill the requirements of these assessments and use their judgement as to whether that is feasible in each individual case. See our article on this topic for more information.</p>	<p>Effective March 31, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.</p>
<p><i>Inspection, Testing &amp; Maintenance (ITM) under the Physical Environment Conditions of Participation</i></p>	<p>1. CMS is temporarily modifying the requirement at §418.110(c)(2)(iv) to the extent necessary to permit inpatient hospices to adjust scheduled inspection, testing and maintenance frequencies and activities for facility and medical equipment.</p> <p>2. CMS is temporarily modifying §482.41(d)(1)(i) and (e) to the extent necessary to permit these inpatient hospices to adjust scheduled ITM frequencies and activities required by the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). The following LSC and HCFC ITM are considered critical are not included in this waiver:</p> <ul style="list-style-type: none"> <li>• Sprinkler system monthly electric motor-driven and weekly diesel engine-driven fire pump testing.</li> <li>• Portable fire extinguisher monthly inspection.</li> </ul>	<p>These waivers were terminated effective 6/6/2022</p>

	<ul style="list-style-type: none"> <li>• Elevators with firefighters' emergency operations monthly testing.</li> <li>• Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.</li> <li>• Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.</li> </ul> <p><b>3.</b> CMS will permit a waiver of outside window and outside door requirements at §418.110(d)(6) to permit inpatient hospices to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine.</p> <p><b>4.</b> CMS is waiving and modifying particular waivers under §418.110(d) for inpatient hospice;</p> <ul style="list-style-type: none"> <li>• Fire Drills: Due to the inadvisability of quarterly fire drills that move and mass staff together, we will instead permit a documented orientation training program related to the current fire plan, which considers current facility conditions. The training will instruct employees, including existing, new or temporary employees, on their</li> </ul>	
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	<p>current duties, life safety procedures and the fire protection devices in their assigned area.</p> <ul style="list-style-type: none"> <li>• Temporary Construction: CMS is waiving requirements that would otherwise not permit temporary walls and barriers between patients.</li> </ul>	
<i>Alcohol-Based Hand-Rub (ABHR) Dispensers</i>	<p>CMS is waiving the prescriptive requirements for the placement of alcohol-based hand rub (ABHR) dispensers for use by staff and others due to the need for the increased use of ABHR in infection control. However, ABHRs contain ethyl alcohol, which is considered a flammable liquid, and there are restrictions on the storage and location of the containers. This includes restricting access by certain patient/resident population to prevent accidental ingestion. Due to the increased fire risk for bulk containers (over five gallons) those will still need to be stored in a protected hazardous materials area. CMS will end this waiver at the conclusion of the PHE.</p>	<p>Effective April 9, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS. <a href="#">Updated guidance 8/18/22.</a></p>
<i>Suspending audits during the emergency period</i>	<p>CMS has suspended most Medicare Fee-For-Service (FFS) medical review during the emergency period due to the COVID-19 pandemic. This includes pre-payment medical reviews conducted by Medicare Administrative Contractors (MACs) under the</p>	<p>Resumed 9/1/21  CMS announced restarting the <a href="#">Targeted Probe and Educate (TPE)</a> program on August 12, 2021.</p>

	<p>Targeted Probe and Educate (TPE) program, and post-payment reviews conducted by the MACs, Supplemental Medical Review Contractor (SMRC) reviews and Recovery Audit Contractor (RAC).</p> <ul style="list-style-type: none"> <li>• No additional documentation requests will be issued for the duration of the PHE for the COVID-19 pandemic.</li> <li>• TPE reviews that are in process will be suspended and claims will be released and paid. Current post-payment MAC, SMRC, and RAC reviews will be suspended and released from review. This suspension of medical review activities is for the duration of the PHE.</li> <li>• However, CMS may conduct medical reviews during or after the PHE if there is an indication of potential fraud.</li> </ul>	
<i>Quality Assessment and Performance Improvement (QAPI)</i>	<p>CMS is narrowing the scope of the QAPI program at §418.58 to concentrate on infection control issues, while retaining the requirement that remaining activities should continue to focus on adverse events. The requirement that hospices maintain an effective, ongoing, agency-wide, data-driven quality assessment and performance improvement program will remain.</p>	<p>Effective April 30, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.</p>
<i>Cost reports</i>	<p>CMS is delayed the filing deadline of certain cost report due dates due to the COVID-19 outbreak.</p>	<p>Extension Ended 7/31/20</p>

<p><i>Accelerated/Advanced Payments</i></p>	<p>CMS will <b>not</b> be accepting any new applications for the Advance Payment Program, and CMS will be reevaluating all pending and new applications for Accelerated Payments. <a href="#">Details are available</a> from CMS.</p> <p>CMS is authorized to provide accelerated or advance payments during the period of the public health emergency to any Medicare provider/supplier who submits a request to the appropriate Medicare Administrative Contractor (MAC) and meets the required qualifications.</p>	<p>No new applications were accepted after May 2020. For a reminder on the Congressionally amended payment terms, see this <a href="#">article</a>.</p>
<p><i>Allowing hospices to utilize pseudo patients in the aide competency testing</i></p>	<p>Hospices are allowed to use pseudo-patients (a person roleplaying or computer-based mannequin device) for aide competency testing in order to get new aides to work faster.</p>	<p>Waiver was made permanent with <a href="#">FY2022 Hospice Wage Index final rule 8/4/21</a>.</p>
<p><i>Annual Training</i></p>	<p>The requirement for hospices at §418.100(g)(3) to annually assess the skills and competence of all individuals furnishing care and provide in-service training and education programs where required is postponed throughout the public health emergency until the end of the first full quarter after the declaration of the public health emergency concludes. This does not alter the minimum personnel requirements at §418.114. Selected hospice staff must complete training and have their competency evaluated in</p>	<p>Effective April 9, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.</p> <p>Hospices will have until the end of the first full quarter after the end of the PHE to resume annual trainings. <a href="#">Updated guidance 8/18/22</a>.</p>

	<p>accordance with unwaived provisions of §418.</p> <p>CMS also waived the annual 12-hour in service training requirement for hospice aides to allow hospice aides and the nurses who would be supervising the training to spend more time on direct patient care.</p>	
<i>Training and Assessment of Aides</i>	<p>CMS waived the requirement at 42 CFR §418.76(h)(2) for Hospice, which require 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) to make an annual onsite supervisory visit (direct observation) for each aide that provides services on behalf of the agency. In accordance with section 1135(b)(5) of the Act, CMS is postponing completion of these visits.</p>	<p>Effective April 9, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.</p> <p>All postponed onsite assessments of aides must be completed by the appropriate skilled professionals no later than 60 days after the expiration of the PHE. <a href="#">Updated guidance 8/18/22.</a></p>
<i>Relaxing requirements for the hospice comprehensive assessment</i>	<p>Hospices must continue to complete the required assessments and updates, however, the timeframes for updating the assessment may be extended from 15 to 21 days.</p>	<p>Effective April 20, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.</p>
<i>Allowing contracting for core services (42 CFR 418.64)</i>	<p>CMS is waiving the requirement for hospices to provide certain non-core hospice services during the national emergency, including the requirements at 42 CFR §418.72 for physical therapy,</p>	<p>Effective April 20, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.</p>

	occupational therapy, and speech-language pathology.	
<i>Permitting telephonic or video supervision of hospice aides in lieu of the mandatory in-person nurse visit every 14 days</i>	CMS is waiving the requirements that a nurse conduct an onsite visit every two weeks to evaluate if aides are providing care consistent with the care plan.	Effective April 20, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.
<i>Waiving the 5% level of activity requirement</i>	CMS is waiving the requirement that hospices are required to use volunteers (including at least 5% of patient care hours).	Effective April 20, 2020 and goes through the end of PHE unless otherwise modified or terminated by CMS.
<i>COVID-19 Vaccinations</i>	<p>CMS released an Interim Final Rule with comment period (IFC) announcing that Medicare Part B would establish coding and payment rates for COVID-19 vaccines and their administration as preventive vaccines, without cost-sharing, as soon as the Food and Drug Administration (FDA) authorized or approved the product through an Emergency Use Authorization (EUA) or Biologics License Application (BLA).</p> <p>CMS also established an additional payment amount of approximately \$35.50 per dose to administer COVID-19 vaccines in the home for certain Medicare patients. For vaccines requiring multiple doses, this payment applies for each dose in the series, including any additional or booster doses, and we geographically adjust the</p>	<p>Effective October 28, 2020.</p> <p><a href="#">Updated guidance from 8/18/22 states</a> CMS will continue to pay a total payment of approximately \$75 per dose to administer COVID-19 vaccines in the home for certain Medicare patients through the end of the calendar year that the PHE ends.</p> <p>CMS will be setting future payments for COVID-19 vaccinations to be effective January 1 of the year following the end of the PHE. LeadingAge is following up with CMS staff to better understand if an interim price will be available if CMS has not finalized a future payment by January 1 of the year following the end of the PHE.</p>



	additional amount and administration rate based on where the provider or supplier administers the vaccine.	
<i>COVID-19 Monoclonal Antibodies</i>	During the PHE, CMS covers and pays for these infusions or injections the same way it covers and pays for COVID-19 vaccines when furnished consistent with the EUA. There's also no beneficiary cost sharing and no deductible for COVID-19 monoclonal antibody products when providers administer them. CMS doesn't pay for the COVID-19 monoclonal antibody product when a health care setting has received it for free. If a health care setting purchased the product from the manufacturer, Medicare pays the reasonable cost or 95% of the average wholesale price.	<a href="#">Updated guidance from 8/18/22</a> states effective January 1 of the year following the year that the PHE ends, CMS will pay for monoclonal antibodies the same way they pay for other biological products
<i>COVID-19 Remdesivir</i>	FDA updated the approval of VEKLURYTM (remdesivir) and authorized its use in the outpatient setting. The federal government didn't purchase a supply of remdesivir. Medicare Part B provides payment for the drug and its administration under the applicable Medicare Part B payment policy when a facility or practitioner provides it in the outpatient setting, according to the FDA approval and authorization. In most cases, the Medicare patient's yearly Part B deductible and 20% co-insurance apply.	Effective January 21, 2022. <a href="#">Updated guidance from 8/18/2022</a> makes no changes to this drug's pricing or usage.

<i>COVID-19 Tests</i>	Medicare implemented a demonstration program to allow people with Medicare to receive up to eight tests per calendar month at no cost. This is the first time that Medicare has covered an over-the-counter, self-administered, test. This new initiative enables people with Medicare Part B, including those enrolled in a Medicare Advantage plan, to receive tests at no cost from providers and suppliers who are eligible to participate.	Effective April 2, 2022 and goes through the end of PHE unless otherwise modified or terminated by CMS. <a href="#">Updated guidance 8/18/22.</a>
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