

Federal and State Regulatory Changes in Response to COVID-19

CMS	
Comprehensive List of Resources regarding CMS Waivers and Flexibilities	
ACTION	SOURCES & RESOURCES
<p>NC 1135 Waiver: NC Medicaid requested these flexibilities from CMS on March 17, 2020. CMS responded on March 23, 2020, allowing additional waivers designed to address areas not covered by the blanket 1135 waivers discussed below. Flexibilities impact provider enrollment requirements, pre-admission screening, fair hearing requests and appeal timelines, and fee-for-service prior authorization requirements. All waivers will last throughout the duration of the public health emergency.</p>	<p>NC 1135 Waiver</p>
<p>Emergency Declaration Blanket 1135 Waivers: CMS issued numerous 1135 waivers designed to make “sweeping regulatory changes” to the health care system. These waivers are blanket waivers that apply nationwide without the need for providers to take further action. Waivers for various providers have been issued and are described by CMS in provider-specific fact sheets.</p>	<p>Emergency Declaration Blanket Waivers CMS Graphic Overview Provider Burden Relief FAQs Physicians and Other Clinicians: CMS Flexibilities to Fight COVID-19 Fact Sheet Hospital Fact Sheet</p>
<p>Blanket Waivers of Sanctions under the Physician Self-Referral Law: CMS issued blanket waivers of sanctions under the physician self-referral law to assist in the COVID-19 response. Waiver available without notifying CMS. Individual waivers may also be granted upon request via email to 1877CallCenter@cms.hhs.gov. The words “Request for 1877(g) Waiver” must be included in the subject line, and requests should include the following minimum information: 1) name and address of requesting entity; 2) name, phone number and email address of person designated to represent the entity; 3) CMS Certification Number or Taxpayer Identification Number of the requesting entity; and 4) nature of request.</p>	<p>Blanket Waivers of Section 1877(g) Physician Self-Referral Spotlight</p>

<p>Interim Final Rule: CMS announced an Interim Final Rule (IFR), including the “Hospitals without Walls” initiative, designed to increase hospital inpatient surge capacity by utilizing outside healthcare facilities and temporary expansion sites for non-COVID patients. The rule also includes provisions providing new regulatory flexibility, relaxed enrollment requirements, expanded telehealth services, and revised physician supervision policies designed to decrease administrative burden and increase access to care.</p>	<p>CMS Interim Final Rule Physicians and Other Clinicians: CMS Flexibilities to Fight COVID-19 Factsheet Hospitals: CMS Flexibilities to Fight COVID-19 Factsheet Regulatory Changes Summary</p>
<p>EMTALA: CMS is waiving the enforcement of section 1867(a) of the Act to allow hospitals, psychiatric hospitals, and critical access hospitals to screen patients at a location offsite from the hospital’s campus to prevent the spread of COVID-19, so long as it is not inconsistent with a state’s emergency preparedness or pandemic plan.</p> <p>The Director of the Quality Safety and Oversight Group also issued an explanatory memo regarding EMTALA requirements and implications related to COVID-19 which was subsequently revised to include additional guidance related to drive through testing sites and expectations regarding the triage process, medical screening examinations, and the use of telehealth.</p>	<p>EMTALA Explanatory Memo Emergency Declaration Blanket Waivers</p>
<p>Medicare: In an effort to provide enrollment relief, CMS will: 1) allow licensed physicians to provide services to Medicare beneficiaries outside their state of enrollment as long as the physician is licensed in another state; 2) temporarily suspend certain Medicare enrollment screening requirements, including criminal background checks and site visits; 3) postpone all revalidation actions; and, 4) expedite any pending or new enrollment applications.</p> <p>CMS has also lifted Medicare restrictions on the use of telehealth services during the COVID-19 response. Notable changes include: 1) payment for telehealth services at the same rate as in-person visits for all diagnoses, not just services related to COVID-19; 2) payment for audio-only telephone calls; 3) expanded the list of covered telehealth services; 4) permitting telehealth for both new and established patients; 5) allowing physicians to provide telehealth services from home without adding home to Medicare enrollment file; and 6) allowing flexibility for telehealth using popular video chat applications such as FaceTime or Skype without fear of</p>	<p>CMS Flexibilities to Fight Covid-19 Medicare Enrollment Relief FAQs Notification of OCR Enforcement Discretion for Telehealth</p>

<p>investigation by OCR even if the technologies are not fully compliant with the requirements of the HIPAA Rules.</p>	
<p>MIPS: CMS has extended the 2019 MIPS date submission deadline to April 30, 2020. Individual MIPS eligible clinicians who do not submit their MIPS date by the deadline will be eligible for the 2019 automatic extreme and uncontrollable circumstances policy and will receive a neutral payment adjustment in 2021. The extreme and uncontrollable circumstances application has also been reopened until April 30, 2020, for those who began submitting data but are unable to complete submission due to COVID-19. CMS has also updated the QPP Participation Status Tool so eligible parties can determine whether the policy has been automatically applied.</p>	<p>QPP COVID-19 Response Fact Sheet CMS Press Release Regarding Relief from Clinicians Participating in Quality Reporting Programs Extreme and Uncontrollable Circumstance Application QPP Participation Status Search Tool</p>

<h2 style="text-align: center;">HHS Office for Civil Rights & HIPAA</h2>	
ACTION	SOURCES & RESOURCES
<p>Limited Waiver of HIPAA Sanctions: Secretary Azar has waived certain sanctions and penalties against a covered hospital that does not comply with the following provisions of the HIPAA Privacy Rule: 1) the requirements to obtain a patient's agreement to speak with family members or friends involved in the patient's care; 2) the requirement to honor a request to opt out of the facility directory; 3) the requirement to distribute a notice of privacy practices; 4) the patient's right to request privacy restrictions; and, 5) the patient's right to request confidential communications.</p>	<p>COVID-19 & HIPAA Bulletin Limited Waiver of HIPAA Sanctions and Penalties During a Nationwide Public Health Emergency</p>
<p>Telehealth: OCR issued guidance explaining that covered health care providers will not be subject to penalties for violations of the HIPAA Privacy, Security, and Breach Notification Rules that occur in the good faith provision of telehealth during the COVID-19 nationwide public health emergency.</p>	<p>Enforcement Discretion Related to HIPAA and Telehealth</p>
<p>Guidance: OCR shared guidance designed to remind entities covered by civil rights authorities of their obligations under laws and regulations that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and exercise of conscience</p>	<p>Guidance from OCR Regarding HIPAA, Civil Rights, and COVID-19</p>

and religion in HHS-funded programs and to refrain from unlawful discrimination against people with disabilities when making treatment-related decisions during the COVID-19 response.

Governor Cooper's Executive Orders

[Complete List of all Executive Orders related to COVID-19](#)

ACTION	SOURCES & RESOURCES
EO 135: Extends Stay At Home Order to May 8, 2020.	EO 135
EO 131: This Order imposes new restrictions on retailers and long-term care facilities and streamlines unemployment benefits process. This Order provides mandatory requirements for nursing homes and long-term care facilities including requiring all staff to wear medical masks, prohibiting communal activities, required daily temperature screenings for staff, and close monitoring of residents for coronavirus health indicators.	EO 131 EO 131 FAQs
EO 130: This Order temporarily waives some legal or regulatory constraints in an attempt to increase the state's health care resources during the public health emergency. The Order is designed to increase hospital capacity and expand pool of health care workers, lifts regulations to increase the quantity of available hospital beds and medical equipment, permits out-of-state and retired providers to provide care, expands telehealth services, and allows ambulatory surgical facilities to operate as temporary hospitals.	EO 130 EO 130 FAQs
EO 121: This Order issues a statewide Stay at Home Order until April 29, 2020, and instructs individuals to stay at home except to visit essential businesses, exercise outdoors, or to help a family member. Order specifically bans gatherings of more than 10 people and instructs people to physically stay at least 6 feet away from others.	EO 121 EO 121 FAQs Additional Guidance
EO 116: This Order declares a state of emergency.	EO 116

North Carolina Medical Board

ACTION	SOURCES & RESOURCES
<p>Licensure: The NCMB has authorized several emergency measures to increase the supply of available medical professionals in the state by easing barriers to medical licensure. These measures include: 1) allowing fully qualified physicians who are completing advanced fellowship training with a North Carolina training institution to apply for a limited emergency license, which provides a temporary full and unrestricted medical license during the declared state of emergency; 2) postponing certain medical license examinations (USMLE and COMLEX–USA Step/Level 2) for fourth year medical students who have matched with a North Carolina training institution; 3) temporarily suspending criminal background checks for license applications due to lack of availability of fingerprinting services; and, 4) extending the timeline for emergency licenses issued to 30 days after the current state of emergency is lifted.</p> <p>The NCMB also authorized measures to temporarily allow new physician assistant and nurse practitioner graduates who have not been able to complete national certifying examinations due to testing facility closures to receive a temporary license valid for up to 6 months.</p>	<p>Order Waiving Certain Requirements for a Limited Emergency License to Physicians in a Fellowship Order Postponing Step-Level 2 Requirements for RTL Order Postponing Background Checks Order Extending Emergency License Expiration Order Waiving Certification Exams for New PA Grads Order Waiving Certification Exams for New NP Grads</p>
<p>Supervision of APPs: The NCMB authorized a temporary waiver of paperwork requirements for PAs and NPs who are temporarily reassigned to a new practice area within a hospital, health system or multi-specialty group during the COVID-19 pandemic. The supervising physician and facility administration must ensure the PA/NP: 1) is reassigned to perform only those medical tasks for which he or she is competent and qualified to do; 2) has reasonable and immediate access to a physician, either in person or electronically, should medical issues arise; and 3) complies with all applicable rules including the requirement to confer at least monthly with a physician to ensure meaningful supervision and quality assurance within the new practice setting.</p>	<p>Emergency Reassignments of PAs Order Emergency Reassignments of NPs Order</p>
<p>Prescribing:</p>	<p>COVID-19 Drug Preservation Rule Guidance Regarding Preemptive Prescribing”</p>

<p>Rule established restricting the prescription of chloroquine, azithromycin and other medications to ensure that these drugs are available to patients who need them and to reduce the occurrence of reported stockpiling or inappropriate prescribing of these medications.</p>	<p>**The NC Board of Pharmacy issued an identical rule that can be found here**</p>
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<h3 style="text-align: center;">North Carolina Midwifery Joint Committee</h3>	
ACTION	SOURCES & RESOURCES
<p>Licensure: The Joint Committee authorized measures to temporarily allow new graduates who have not been able to complete national certifying examinations due to testing facility closures to receive a temporary license valid for up to 6 months and will permit a nurse midwife to practice under the supervision of an on-site physician or certified nurse midwife who has been practicing for a minimum of 2 years. The Committee also authorized the temporary waiver of certain application requirements to permit reinstatement if the nurse midwife is reinstating to practice in an established practice and provides the practice location to the Board of Nursing.</p>	<p>Nurse Midwife Emergency Temporary Graduate Nurse Midwife Emergency Temporary Reinstatement</p>
<p>Supervision: The Joint Committee authorized a temporary waiver of required physician supervision to allow an approval to practice to be extended in cases of emergency such as the injury or sudden illness of a supervising physician during the declared state of emergency without submitting documentation establishing a new supervising physician. A CNM seeking an extension must first notify Board of Nursing staff, who may grant an extension for up to 45 days.</p>	<p>Emergency Temporary Extension of Approval to Practice</p>
<p>Prescribing: Proposed temporary rule restricting the prescription of chloroquine, azithromycin and other medications to ensure that these drugs are available to patients who need them and to reduce the occurrence of reported stockpiling or inappropriate prescribing of these medications.</p>	<p>COVID-19 Drug Preservation Rule</p>

North Carolina Department of Insurance

ACTION	SOURCES & RESOURCES
<p>Advisory issued by DOI to insurance companies regarding policyholders affected by the COVID-19 virus recommended the state’s insurance industry consider the following actions: 1) relax due dates for premiums payments; 2) extend grace periods; 3) waive late fees and penalties; 4) allow payment plans for premiums payments to otherwise avoid a lapse in coverage; and, 5) consider cancellation of non-renewal of policies only after exhausting other efforts to work with policyholders to continue coverage.</p>	<p>Advisory to Insurance Companies Regarding Policyholders Affected by the COVID19 Virus</p>
<p>DOI directed all licensed health benefit plans to allow for extra prescriptions during the declared state of emergency. Covered persons may obtain one refill on a prescription if there are authorized refills and not contrary to the dispensing authority of the pharmacy.</p>	<p>Bulletin 20-B-04</p>
<p>Commissioner’s Order activating G.S. § 58-2-46 requires insurance companies to give their customers affected by the COVID-19 health emergency the option to defer premium and debt payments</p>	<p>Order 20-B-06 Order & Bulletin 20-B-06 FAQs</p>
<p>Although not binding regulation, the Commissioner has issued a press release encouraging insurance companies to facilitate diagnostic testing and treatment needed for COVID-19. Recommendations included asking insurers to waive prior authorization for COVID-19 diagnostic tests and covered services, increase access to certain drugs and to make expedited formulary exceptions if needed or if there is a shortage of a certain medication, expand telehealth services, implement consistency in coding including that of out-of-the box services such as curbside help, extend their preapproval time limits, review internal processes and operations to ensure readiness to address COVID-19 cases, promptly notify providers, helpline staff and customer service personnel on policies regarding COVID-19, and verify that provider networks are adequate to handle the increases as more COVID-19 cases are diagnosed.</p>	<p>Press Release Requesting Speedy Access</p>

North Carolina Industrial Commission

ACTION	SOURCES & RESOURCES
<p>The Industrial Commission issued guidance for health care providers regarding telehealth visits for workers' compensation cases. Per the IC, neither the Workers' Compensation Act nor any Industrial Commission Rules disallow telehealth. Evaluation & Management visits conducted via telehealth can be billed using the same Evaluation & Management codes that are used for an in-person office visit, except that "02" should be used as the "Place of Service" code.</p>	<p>COVID-19 FAQs</p>