

# Preparing for the End of the COVID-19 Emergency: Telehealth

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## OVERVIEW

The Biden administration has announced its intent to end the COVID-19 National Emergency (NE) and the COVID-19 Public Health Emergency (PHE) on May 11, 2023 (read our prior [article](#) for more information). In response to the COVID-19 pandemic, lawmakers and agencies made legislative and regulatory changes to expand access to telehealth services for individuals. This article explores what will happen to these temporary telehealth benefits at the end of the PHE and NE.

## IN DEPTH

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## TELEHEALTH BENEFIT OFFERINGS

Current flexibilities under the Affordable Care Act (ACA) allow applicable large employers (ALEs) to offer stand-alone telehealth and remote care services to employees who were not eligible for other employer coverage during the PHE.

In addition, the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act and IRS Notice 2020-29 established a temporary telehealth safe harbor, providing that a high-deductible health plan (HDHP) could cover telehealth and other remote care services on a pre-deductible basis without impacting an individual's ability to contribute to an HSA. This relief applied to services provided on or after January 1, 2020, with respect to plan years beginning on or before December 31, 2021. Thus, for most calendar-year plans, this relief ended on December 31, 2021. The Consolidated Appropriations Act, 2022 (CAA 2022) renewed the relief under the CARES Act for months beginning after March 31, 2022, and before January 1, 2023—but it created a three-month gap in coverage from January 1, 2022, to March 31, 2022. The CAA 2022 also [extended certain flexibilities related to Medicare coverage and payment for telehealth services](#) through the end of 2024. The relief provided under the CAA 2022, however, was provided on a temporary basis and not tied to the PHE or NE.

Effective December 29, 2022, the Consolidated Appropriations Act, 2023 (CAA 2023) provided a two-year extension allowing first-dollar coverage of telehealth under an HDHP so that individuals can access services without needing to meet a deductible first. The CAA 2023 extends telehealth relief for plan years beginning after December 31, 2022, and before January 1, 2025. Most calendar year plans should therefore have coverage of pre-deductible telehealth services without affecting HSA eligibility for all of 2023 and 2024. When the PHE ends, stand-alone telehealth offerings must cease, but telehealth offerings on a pre-deductible basis can continue.

## ACTION ITEMS

The stand-alone telehealth relief under the ACA is available until the end of the latest plan year that begins on or before the last day of the PHE. For calendar-year plans, this relief would last until December 31, 2023. When an employer ends its stand-alone telehealth benefit, it may need to provide participants a 60-day notice of a material reduction in benefits.

Employers offering telehealth coverage on a pre-deductible basis with HDHPs have been provided statutory relief through December 31, 2024, through the CAA 2023. However, employers should continue to watch for legislative updates regarding telehealth. Lawmakers have proposed multiple other bills in Congress to extend or make permanent telehealth flexibilities.