

Unwinding from the Federal Public Health Emergency

The Federal Public Health Emergency will end **May 11, 2023**.

*This document is based on information as of 3.6.23. It will be updated as new information is received.

1915c Traditional IID/DD HCBS Wavier

- Appendix K will expire on **November 11, 2023**, 6 months after the PHE ends.
 - All waiver service activities must meet the scope of the service definition and be provided in locations described in the approved waiver application. For example, the appendix K allowed day services (Day Habilitation, Pre-Vocational Services, and Small Group Employment Services) to be provided in the home, but now must be provided in the community or facility location.
 - **Teams must identify the clients who this will affect. Team meetings should be held to discuss the transition and make any necessary service plan updates by November 11, 2023.**
 - Training- Providers will have 6 months after the PHE ends to get staff up to date on annual trainings and to complete the modules if their 18 months has already passed. If their 18 months has not passed, they must still follow the policy timeline.
 - Team meetings, assessments and monitoring must be completed face to face. Team members may participate in team meetings virtually based on State policy.
 - Per the HCBS settings rule, providers can no longer restrict individual's rights to have visitors at any time they choose.
 - Background Checks- SNF 1792 (Self disclosure form) is ONLY for those states where state law prohibits the state from disclosing relevant criminal records and child abuse checks or the potential staff has lived in a country where criminal records are unavailable.
 - **For the full list on all PHE ending activities, please reference the excel document "Unwinding from PHE for stakeholders."**
- A waiver amendment will be submitted to CMS to request that the following continue after November 11, 2023:
 - Virtual Supports for Independent Habilitation, Parenting Supports, Behavioral Consultation, Infant Development, and Individual Employment Supports. A policy will be established for virtual supports service delivery.
 - For **Self-directed only**, an employee who is providing self-directed in-home support must submit a background check application to the fiscal agent but will be allowed to start providing service BEFORE receiving the results of the background check. In the event there is a hit on the employee's background check, the results will go to the employer of record and that employee must stop working immediately.
 - Relatives to be hired as a DSP for the following services: Residential Habilitation, Independent Habilitation, Day Habilitation, Prevocational Services, Small Group Services, Individual Employment. A relative must be employed by a DD Licensed provider to provide services.

DEVELOPMENTAL DISABILITIES

- Continuation of electronic signatures.

Intermediate Care Facility (ICF/IID)

- Therapeutic leave days will return to 30 days per calendar year on **May 12, 2023**; if an individual used 60 days prior to May 12, 2023, they will have zero days left for the calendar year; if an individual used less than 30 days they will have up to 30 days remaining. For example, if an individual used 20 days prior to May 12, they then have 10 days remaining for the calendar year.
- All waivers will end as of **May 12, 2023**. This includes flexibilities around community outings, training requirements, and active treatment. A full list can be found at the site below. Please refer to page 31 and complete a word search for ICF to see all the guidance specific to ICF.
<https://www.cms.gov/files/document/covid-19-emergency-declaration-waivers.pdf>
- The vaccine requirement found at the following link is a federal regulation and continues to be implemented. Refer to Appendix F on page 60 for the regulations pertaining to ICFs.
<https://www.cms.gov/files/document/qs0-23-02-all.pdf>
- At this time the State has not received any information on the usage of masks.

Medicaid

- Starting April 1, 2023, North Dakota will begin regular Medicaid renewals for people whose coverage was temporarily extended due to the COVID-19 public health emergency to make sure they still qualify. <https://www.hhs.nd.gov/human-services/medicaid/StayCoveredND>
- The mandatory coverage for State Medicaid programs to provide coverage without cost sharing for COVID-19 testing, treatment and vaccines will end on **September 30, 2024**, after which coverage may vary by state

Additional Topics

- SIS and ICAP assessments will be required to be in person.
- GER requirements will return to pre-Covid instructions. GERs will follow all regular guidance for entries related to illness and hospitalizations. No GERs will be required for testing specifically, though the subtype for Covid may still be used for any GER that is entered.
- DHHS Covid team will not require any reporting for testing results. Any testing performed at a healthcare facility may be reported through their requirements, but tests performed at a DD agency will not be required to be reported.
- Covid Testing and supplies – Testing events with state staff assistance have ended and all testing should be completed with self-administered home tests which can still be ordered through the HAN until supplies have been used up. All infection control supplies should be purchased through DD agencies regular suppliers and will no longer be available through the HAN.