

# OIG's COVID-19 Public Health Emergency Flexibilities End on May 11, 2023 Upon Expiration of the COVID-19 Public Health Emergency Declaration

## Important

This notice reminds the health care community that OIG flexibilities, described further below, end upon the expiration of the COVID-19 Declaration on May 11, 2023.

In connection with the [COVID-19 public health emergency declaration](#) (COVID-19 Declaration) first issued by the Secretary of Health and Human Services (HHS) under Section 319 of the Public Health Service Act on January 31, 2020, and subsequently renewed, the Office of Inspector General (OIG) issued two Policy Statements and answered a series of frequently asked questions (FAQs). The Policy Statements and FAQs were designed to provide flexibility and minimize burdens for the health care industry as it faced the challenges of the COVID-19 pandemic. Based on current COVID-19 trends, [HHS plans to let the COVID-19 Declaration expire](#) at the end of the day on May 11, 2023.

The information below describes the Policy Statements and FAQs OIG instituted during the time period covered by the COVID-19 Declaration, explains what each flexibility did, and provides other information.

### [OIG Policy Statement Regarding Physicians and Other Practitioners That Reduce or Waive Amounts Owed by Federal Health Care Program Beneficiaries for Telehealth Services During the 2019 Novel Coronavirus \(COVID-19\) Outbreak](#) (Telehealth Policy Statement) (March 17, 2020)

- **What it Did**
  - Notified physicians and other practitioners that they would not be subject to administrative sanctions for reducing or waiving any cost-sharing obligations Federal health care program beneficiaries may owe for telehealth services furnished consistent with the then-applicable coverage and payment rules, subject to the conditions specified in the Telehealth Policy Statement.
- **When Flexibility Ends**
  - May 11, 2023
- **Other Information**
  - One of the conditions of the Telehealth Policy Statement is that "[t]he telehealth services are furnished during the time period subject to the COVID-19 Declaration." This means that reductions or waivers of Federal health care program enrollees' cost-sharing obligations for telehealth services furnished after the expiration of the COVID-19 Declaration on May 11, 2023, will not receive prospective immunity from OIG administrative sanctions under the Telehealth Policy Statement.

### [OIG Policy Statement Regarding Application of Certain Administrative Enforcement Authorities Due to Declaration of Coronavirus Disease 2019 \(COVID-19\) Outbreak in the United States as a National Emergency](#)

(OIG Blanket Waivers Policy Statement; April 3, 2020)

- **What it Did**

- Provided notice that OIG would exercise its enforcement discretion not to impose certain administrative sanctions for certain remuneration related to COVID-19 covered by the [Blanket Waivers of Section 1877\(g\) of the Social Security Act](#) (Centers for Medicare & Medicaid Services (CMS) Blanket Waivers) issued by the Secretary, subject to the conditions specified in the Policy Statement.
- **When Flexibility Ends**
  - May 11, 2023
- **Other Information**
  - As stated in the OIG Blanket Waivers Policy Statement, "This Policy Statement shall terminate on the same date as the date that the [CMS] Blanket Waivers terminate, as set forth in section 1135(e) of the [Social Security] Act." The CMS Blanket Waivers end upon "the termination of the applicable declaration of public health emergency." Consequently, the OIG Blanket Waivers Policy Statement will terminate upon the expiration of the COVID-19 Declaration.

[FAQs-Application of OIG's Administrative Enforcement Authorities to Arrangements Directly Connected to the Coronavirus Disease 2019 \(COVID-19\) Public Health Emergency](#) (FAQs; published beginning April 10, 2020)

- **What it Did**
  - Provided informal, nonbinding guidance explaining how OIG views certain arrangements that were directly connected to the public health emergency and implicated OIG's administrative enforcement authorities, including the Federal anti-kickback statute and Beneficiary Inducements CMP.
- **When Flexibility Ends**
  - May 11, 2023
- **Other Information**
  - As stated in the FAQs, the informal, nonbinding feedback provided "applies only to arrangements in existence solely during the time period subject to the COVID-19 Declaration." As also stated in the FAQs, "Given the unique circumstances surrounding the public health emergency, OIG may take a different position on arrangements that are the same or similar in nature that existed before the effective date of the COVID-19 Declaration or after the time such COVID-19 Declaration ends."