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HHS: PHE Will 'Likely' Last Through 2021; Keep Eye on State Waivers Too

By Nina Youngstrom

Hospitals and other providers can probably count on the Sec. 1135 waivers through the end of the year, HHS said, but if the COVID-19 pandemic takes a turn for the better, HHS will give them plenty of warning. They won't necessarily have a comparable pass from their states, however, attorneys cautioned.

In a Jan. 22 letter to governors,^[1] Acting HHS Sec. Norris Cochran said the public health emergency (PHE), which is the basis for the waivers, will continue through 2021, although it will require formal renewal every 90 days. "The current public health emergency was renewed effective January 21, 2021, and will be in effect for 90 days. To assure you of our commitment to the ongoing response, we have determined that the PHE will likely remain in place for the entirety of 2021, and when a decision is made to terminate the declaration or let it expire, HHS will provide states with 60 days' notice prior to termination," Cochran wrote.

The letter apparently is an acknowledgment of how long it will take to recover from the long national COVID-19 nightmare. "The government seems to be signaling that providers will be able to rely on 1135 waivers for the foreseeable future," said attorney Victoria Sheridan, with Epstein Becker & Green in Newark, New Jersey. "It gives providers a level of comfort that COVID-related operations and reimbursement issues they may experience as the virus impact continues to evolve over time will be available."

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