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**DATE:** March 24, 2023

**TO:** All Programs of All-Inclusive Care for the Elderly (PACE) Organizations

**SUBJECT:** Coronavirus Disease 2019 (COVID-19) Related Exercise of Enforcement Discretion Ending May 11, 2023

After the Secretary of Health and Human Services declared the COVID-19 public health emergency (PHE) in January 2020, CMS developed guidance for PACE Organizations (POs) regarding steps they should take to protect PACE participants and staff against the spread of COVID-19. In March 17, 2020 guidance, entitled “Information for PACE Organizations Regarding Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19),” and in subsequent FAQs, CMS outlined precautions against COVID-19, and announced that CMS was exercising its enforcement discretion to adopt a temporary policy of relaxed enforcement in connection with certain PACE requirements, with the caveat that this temporary policy would end when the COVID-19 PHE, or any extension thereof, ends.

On January 30, 2023, the Biden-Harris Administration announced that it intends to end the national emergency and PHE related to the COVID-19 pandemic on May 11, 2023. On February 9, 2023, the Secretary of Health and Human Services informed governors that, based on current trends regarding COVID-19, the U.S. Department of Health and Human Services is planning for the COVID-19 PHE to end on May 11, 2023.<sup>1</sup>

This memo is to inform POs that CMS is ending the temporary enforcement discretion policy to coincide with the ending of the COVID-19 national emergency and public health emergency declarations, effective May 11, 2023. After that date, POs will be required to comply with current statutory and regulatory PACE program requirements, including the requirement to conduct in-person participant assessments in accordance with 42 CFR § 460.104, and signature requirements for the enrollment process (Sections 460.152(a)(2), 460.154, 460.156, and 460.158)). This means that there is no longer enforcement discretion for use of remote technology for scheduled and unscheduled participant assessments, care planning, monitoring, communication, and other related activities that would normally occur on an in-person basis.

If you have any questions about this memorandum, please submit an inquiry at <https://pace.lmi.org>.

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<sup>1</sup> <https://www.hhs.gov/about/news/2023/02/09/fact-sheet-covid-19-public-health-emergency-transition-roadmap.html>