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# Board of Supervisors Memorandum

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April 4, 2023

## Impact on Pima County of the Announced End of the Federal Public Health Emergency on May 11, 2023 and Recommendations to Implement Necessary Policy Modifications

### Background

On January 30, 2023, the Biden Administration announced its intent to end the national emergency and public health emergency declarations related to the COVID-19 pandemic on May 11, 2023. In place since 2020, these declarations provided the federal government with the flexibility to modify requirements and, in turn, Pima County implemented a variety of rules and regulations to respond to the public health crisis.

The following is a summary of internal, operational policies and/or procedures that are proposed for elimination following May 11, 2023.

### **Facilities Management**

Beginning May 11, 2023, the Facilities Department will:

- Remove all signs posted in the elevators limiting capacity and/or suggesting mask use;
- Remove all signs related to requirements for social distancing in public facilities;
- Remove all signs requiring or suggesting mask use;
- Cease to fog offices following presence in the rooms of an individual who tested positive for COVID-19;
- Return any extended Heating and Cooling hours of operation to normal schedules;
- Allow all drinking fountains to resume operations; and
- Return the amount of outside air that is brought into the buildings to return to pre-pandemic patterns of flow

### **Finance and Risk Management**

A review of the many policies implemented during the pandemic requires that the following changes be made by Central Payroll in the Department of Finance and Risk Management with the pay period beginning July 2, 2023:

- Any remaining available hours for the following COVID-19 related leave will be reduced to 0 for all employees. The categories of leave associated with COVID-19 that will be zeroed out and henceforth eliminated are:
  - Annual COVID Vaccine Leave (16 hours); and
  - Federal Emergency Paid Sick Leave (FEPST) also known as Families First Coronavirus Response Act (FFCRA) (80 hours)

The Honorable Chair and Members, Pima County Board of Supervisors  
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On July 6, 2021, Human Resources received authorization from the County Administrator to convert Pandemic Outbreak Leave (80 hours) to Pandemic Leave – Vacation upon the end of the County’s Declaration of Emergency for employees who had been employed with the County since June 30, 2020. In accordance with previous action by the Board of Supervisors on February 25, 2022, any remaining converted Pandemic Leave – Vacation could be used at any time or paid out upon separation of employment.

In addition, Board of Supervisors action of February 25, 2023 allowed for Vaccination Incentive Leave to transfer to the employee’s available hours of sick leave on his/her anniversary date.

### **Grants Management and Innovation**

Pima County received numerous grant awards relating to the direct and indirect impacts of the COVID-19 pandemic. The largest COVID-19 related grants include \$203,421,668 from the Coronavirus State & Local Fiscal Recover fund (CSLFRF), which was authorized by the American Rescue Plan Act (ARPA) and \$87,107,597 from the Coronavirus Relief Fund (CRF), authorized by the Coronavirus, Aid, Relief, and Economic Security Act of (CARES). CRF/CARES funding has already been spent and the accounts have been closed; therefore, this award will not be affected.

The Grants Management and Innovation Department (GMI) anticipates there will be no impact on the continuing expenditure of the CSLFRF/ARPA federal award. U.S. Treasury administers CSLFRF federal funding and has not issued any alerts tying the end of COVID-19 federal emergency declarations to changes to the CSLFRF Final Rule. GMI will continue to closely monitor U.S. Treasury guidance.

Another significant COVID-19 related federal grant category for Pima County is Emergency Rental Assistance Program (ERAP) funding. Pima County has received a grand total of \$69,206,670 in ERAP monies. Most of this money has already been spent; all ERAP spending should be complete by June 30, 2023. Again, GMI does not anticipate any impact on ERAP expenditures: first, because the ERAP program and its allowable costs are authorized by federal statutes that cannot be undone by the ending of pandemic related emergency declarations; and second because U.S. Treasury, which administers ERAP funding, has not issued any guidance warnings relating to ERAP and the end of COVID-19 federal emergency declarations. GMI will continue to monitor.

To enable the public to review Pima County’s use of CSLFRF/ARPA and CRF/CARES COVID-19 funds to ensure transparency and accountability in government spending and the efficient use of resources, the County developed [PimaRecovers.com](https://www.pimarecovers.com).

This one-stop site for public review of these grants received by Pima County to address the COVID-19 pandemic tracks award totals, grants use (budgets and expenditures), and implementation results. [PimaRecovers.com](https://www.pimarecovers.com) will maintain this transparency dashboard until all COVID-19 funds are expended.

In its review of other active COVID-19 related grant awards, GMI has identified two concerns relating specifically to FEMA Emergency Food and Shelter Program (EFSP) funding for asylum seekers that is currently being used to cover expenses for COVID-19 related medical care and non-congregate shelter. GMI expects, and FEMA EFSP federal administrators have recently indicated, that the allowability of using FEMA EFSP funds to cover COVID-19 related medical and non-congregate shelter costs will end when COVID-19 federal emergency declarations end. Emergency related procurements by Pima County and its subrecipients funded with FEMA EFSP grant revenue will also not be allowable once COVID-19 federal emergency declarations end.

### **Human Resources**

It is proposed that the following be eliminated, effective May 11, 2023:

- Board of Supervisors Policy C 2.9 – Temporary Policy - Novel Coronavirus (COVID-19)
- Administrative Procedure 3-35 – Face Masks for Employees as Well as Members of the Public Accessing County Facilities
- Administrative Procedure 23-55 – COVID-19 Vaccinations (It is recommended, however, that a COVID-19 vaccination and/or booster be added to the list of activities for which an employee may earn rewards or points through the County’s Virgin Pulse program and that the point value be the same as for the flu and shingles shots.
- Administrative Procedure 23-59 – COVID-19 Positive Test Reporting
- COVID-19 Employee Resources Intranet Page
- County Employee Quarantine and isolation Time Periods

While COVID-19 tracking and exposure procedures will no longer be in place, the expectation remains that employees will not enter the workplace if he or she is experience any symptoms of illness.

### **Health Department**

The attached memorandum clearly delineates the impact and implications of the change in the availability of services on Pima County, the Pima County Health Department (PCHD) and Pima County residents. A summary of the key issues explored in depth in the memorandum is provided below:

#### ***COVID-19 Testing***

The availability of widespread, free or low-cost testing will be impacted with the end of the pandemic.

- PCHD will continue to perform free low-barrier antigen testing at the Abrams Building as long as American Rescue Plan Act (ARPA) funding is available, which is estimated to be December 2026.

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- PCHD has contracted with several vendors to provide COVID-19 testing throughout the community during the public health emergency as long as ARPA funding is available
- Free testing may still be available to uninsured Arizonans at pharmacies and in the community, exactly how this will be administered by the federal government is unclear.
- PCHD will distribute home test kits as long as they are available to the County. The current inventory of 16,566 tests is still available and we are requesting additional test kits from the Arizona Department of Health Services to extend the supply beyond May 11, 2023.

#### ***COVID-19 Vaccines***

- The federal government will continue to provide COVID-19 vaccines at no charge until its stockpile runs out, which may occur as early as the fall unless Congress appropriates additional funding.
- We are planning for when COVID-19 vaccines are commercially available, rather than being provided free of charge. PCHD is working to identify options to serve those with the highest need including those who are homebound and in long-term care and/or assisted living facilities.
- COVID-19 vaccines for County employees will be covered under the County's health insurance plan (AETNA) as any other vaccine covered on the plan.

#### ***COVID-19 Treatment***

- With the end of the public health emergency, the federal government will continue to make antivirals such as Paxlovid free regardless of insurance status until its stockpile runs out. Such support is reported to likely end as early as this fall unless Congress appropriates additional funding.
- After May 11, 2023, Medicare beneficiaries will have oral antiviral drugs covered, albeit with a likely co-pay.
- PCHD's test-to-treat program, developed in partnership with Federal Emergency Management Association (FEMA) will continue following the end of the public health emergency as long as ARPA funding is available, which is anticipated by December 2024.
- For Pima County employees, COVID-19 treatment of antivirals will be covered under the County's health insurance AETNA plan as any other drug per the Plan benefit.

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***Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Services***

- WIC services have been provided remotely during the pandemic but will return to an in-person delivery model 90 days after the end of the public health emergency.

**Legal Asylum Seekers and Title 42**

- Title 42 of the Public Health Services Act allowed the Director of the CDC to suspend entry of individuals into the US to protect public health. This provision will be lifted in May 2023.
- With the lifting of Title 42, the average number of people seeking care each day is anticipated to increase. Throughout 2022, the average daily number of legal asylum seekers making their way through the County has ranged from 224 to 770. Border Patrol estimates that Pima County's humanitarian partners may receive up to 1200-1500 people per day. These numbers will overwhelm existing local capacity without significant federal support.
- The end of Title 42 will significantly impact current operations for Pima County border response, including Emergency Management, Procurement, Grants Management and Innovation, Community & Workforce Development, Libraries, Fleet Services, Health and others.

In addition, the May 11, 2023 end of the emergency declaration may impact various community assets and partners. The Pima County Health Department will close monitor these areas of concern, which include:

**Hospital Capacity**

- With the end of the public health emergency, hospitals will lose the flexibility to expand capacity to respond to surges. Hospitals will no longer be able to use expansion sites such as public spaces, vacant stores, tents or other spaces for care provision. They will also no longer be able to use skilled nursing facilities (SNF) for patients not meeting SNF requirements.
- As of October 1, 2024 (according to the Public Readiness and Emergency Preparedness (PREP) Act), liability immunity will end, meaning that fewer health professionals will be able to administer vaccines.

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**Arizona Health Care Cost Containment System (AHCCCS) and Children’s Health Insurance Program (CHIP) Health Coverage**

- During the public health emergency, those on Medicaid and CHIP maintained continuously eligibility without the need for re-enrollment and eligibility re-determination. Beginning April 1, 2023, those enrolled in health coverage will once again need to provide proof of eligibility. An estimated 35,000 to 95,000 individuals in Pima County may lose coverage.
- During the public health emergency co-payments for Medicaid and CHIP as well as premiums were suspended. These are expected to resume.
- Prior-authorization requirements for pharmaceuticals suspended for those with Medicaid or CHIP coverage during the pandemic will also resume.

Recommendation

On February 7, 2020, the County Administrator provided the first Situational Update on the Novel Coronavirus in Pima County. The County Administrator noted that on January 26, 2020, the Arizona Department of Health Services stood up its Health Emergency Operations Center in response to the identification of a case in Maricopa County. On February 1, 2020, the Pima County Health Department stood up a virtual Health Emergency Operations command.

Much has happened over the past three years as we learned to diagnose, track, treat and immunize against COVID-19. Some 250 separate memoranda, policies or procedures were developed and disseminated. While many of these policies and procedures have been eliminated or relaxed, with the declaration of the end of the public health emergency on May 11, 2023, it is time to end the last of the regulations in Pima County.

I recommend that effective May 11, 2023, the Board of Supervisors:

1. Approve the seven (7) Facilities modifications delineated effective, which are:
  - a. Remove all signs posted in the elevators limiting capacity and/or suggesting mask use;
  - b. Remove all signs related to requirements for social distancing in public facilities;
  - c. Remove all signs requiring or suggesting mask use;
  - d. Cease to fog offices following presence in the rooms of an individual who tested positive for COVID-19;
  - e. Return any extended Heating and Cooling hours of operation to normal schedules;
  - f. Allow all drinking fountains to resume operations; and

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- g. Return the amount of outside air that is brought into the buildings to return to pre-pandemic patterns of flow
2. Approve the elimination of COVID-19 specific related leave, including COVID Vaccine Leave and Federal Emergency Paid Sick Leave known as Families First Coronavirus Response Act; and
3. Approve the elimination of COVID-19 specific Board of Supervisors policies, Administrative Procedures and Human Resources policies, which are:
  - a. Board of Supervisors Policy C 2.9 – Temporary Policy - Novel Coronavirus (COVID-19)
  - b. Administrative Procedure 3-35 – Face Masks for Employees as Well as Members of the Public Accessing County Facilities
  - c. Administrative Procedure 23-55 – COVID-19 Vaccinations
  - d. Administrative Procedure 23-59 – COVID-19 Positive Test Reporting
  - e. COVID-19 Employee Resources Intranet Page
  - f. County Employee Quarantine and isolation Time Periods
4. Allow for the inclusion of a COVID-19 vaccination and/or booster on the list of activities for which an employee may earn rewards or points through the County's Virgin Pulse program and that the point value be the same as for the flu and shingle shots.

Sincerely,



Jan Lesher  
County Administrator

JKL/anc – March 20, 2023

Attachment

- c: Carmine DeBonis, Jr., Deputy County Administrator  
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer  
Steve Holmes, Deputy County Administrator  
Terry Cullen, MD, MS, Public Health Director, Pima County Health Department

Date: March 14, 2023

To: Jan Leshner  
County Administrator

From: Theresa Cullen, MD, MS   
Health Department Director

Francisco Garcia  
Deputy County Administrator

**Re: End of Public Health Emergency**

President Biden announced that Health and Human Services (HHS) and Federal Emergency Management Agency (FEMA) will be ending the federal public health emergency on May 11, 2023. Significant implications of the change on Pima County, the Pima County Health Department (PCHD) and its residents are summarized below. This information is accurate as of March 14, 2023 but is subject to change based on additional information and analysis.

**COVID-19 Testing**

- COVID-19 testing costs for Medicaid (AHCCCS) and CHIP (KidsCare) recipients will be continued to be paid until March 31, 2024. Medicare beneficiaries enrolled in Part B will continue to have coverage without cost sharing for laboratory-conducted COVID-19 tests when ordered by a provider, but current access to free over the counter (OTC) COVID-19 tests will end with the public health emergency. The requirement for private insurance companies to cover COVID-19 tests without cost sharing, both for OTC and laboratory tests, will also end. Group health plans and individual health insurance plans will no longer be required to reimburse out-of-network providers for tests. They may elect, but are not required, to cover in-network provided COVID-19 tests (over-the-counter and laboratory) at no charge.
- Individuals who are uninsured will no longer have testing costs covered by the federal government. Testing for a fee will be available to uninsured Arizonans at certain pharmacies and providers
- PCHD currently provides free low-barrier COVID-19 direct antigen testing at the Abrams location. This testing is supported with state and federal grant resources. The end of the pandemic emergency will not impact this effort. This service will continue at least until December of 2026 as long as there are federal resources to support this activity.
- PCHD has contracted with several vendors to provide COVID-19 testing throughout the community during the public health emergency. This effort has also been supported and funded with state and federal resources, and at this time is planned to continue at least through December 2024.
- PCHD has successfully procured free COVID-19 home test kits from the state and federal and state allocation. These free test kits have been distributed to Pima County residents at no cost and in collaboration with community partners, at public libraries, and directly to



community members. These tests kits are also the ones used to support the southwest border asylum seeker response related testing. The current inventory includes approximately 16,566 tests that we intend to make available to the community and is expected to last until May of 2023. Pending requests to the state for additional test kits have been submitted. The expiration of the Public Health Emergency declaration and the exhaustion of current federal cache will mean that we will have to procure test kits from commercial vendors.

- Direct to consumer home rapid COVID-19 antigen continue to be available for US Postal Service delivery as long as the federal supply lasts.
- The federal government will no longer require laboratories to report COVID-19 test results to the CDC.

### **COVID-19 Vaccines**

- The public health emergency eliminated cost-sharing requirements for vaccines paid with Medicare, Medicaid (AHCCCS), CHIP (KidsCare) and private insurance (group and individual plans) beneficiaries. Pima County decreased additional and logistic barriers by eliminating the collection of administrative and billing information, delivering vaccines at community based PODS, assisted living facilities, community settings, events and even in individuals homes.
- With the end of the public health emergency, the federal government will continue to provide free COVID vaccines until the federal stockpile runs out. This may occur as early as the fall (although other reports say later) without Congressional action. Insurance coverage for COVID-19 vaccinations under Medicare Part B without cost sharing will continue beyond the public health emergency. Those enrolled in Medicaid or CHIP, AHCCCS will continue to cover all COVID-19 vaccinations without a co-pay or cost sharing through September 30, 2024, and will cover ACIP-recommended vaccines for most beneficiaries thereafter. Most private insurance plans will continue to cover vaccination when delivered in-network, however the flexibility to go out-of-network at no cost will be eliminated and the administrative burden will increase.
- COVID-19 vaccines will soon become available commercially irrespective of the emergency declaration. At that point, the Health Department will purchase vaccine stock in undetermined quantities (based on cost and funding availability) to supplement what may be made available by the federal government through its vaccination programs. Privately and publicly insured patients will have their health plans billed to offset costs. Initially, the purchase of this vaccine stock will use federal ARPA funds. The estimated annual cost of vaccine based on the recent 2022-2023 booster season vaccinations is estimated at \$588,218 annually (estimated cost of \$130/dose). This cost estimate would cover any patients not eligible for the VFC/VFA immunization programs, or any non-billable patient visits. It also assumes provision of one booster per year to the same number of recipients.

- The end of the federal emergency declaration will likely mean the discontinuation of federal support to ADHS that funds contractors that provide a range of services to vulnerable populations including home-bound individuals, vaccination, long-term care/assisted living facilities and other related settings. Provision of these services by PCHD will depend upon availability of vaccine and staffing.

### **COVID-19 Treatment**

- With the end of the public health emergency, the federal government will continue to make antivirals such as Paxlovid free regardless of insurance status until the current federal stockpile runs out and federal funding expires. Such support is reported to likely end as early as this fall unless Congress appropriates additional funding.
- In a post public health emergency setting, Medicare beneficiaries will continue to have access to oral antiviral costs covered, albeit with a likely co-pay. Those with private insurance are also likely to experience co-pays for treatment such as Paxlovid. It is unclear how high the co-pays might be. Those enrolled in Medicaid will continue to have access to COVID-19 treatment without cost sharing until March 31, 2024; at that time, there may be a continuation of COVID 19 therapeutics at no cost to those with Medicaid. Those without insurance will have to pay the full cost of treatment. A five-day course of Paxlovid will likely exceed the current cost to the federal government which is approximately \$530.
- PCHD developed a COVID-19 test-to-treat program in mid-July 2022 in partnership with FEMA. The goal of the program was to increase access to COVID-19 treatment therapy by prescribing patients who tested positive at home using home antigen test kits. Patients received a prescription or medication was called into the pharmacy of the patient's choosing. In late September 2022, the direct partnership with FEMA ended and PCHD adapted it to virtual visit (and digital prescription) with a PCHD provider for patients with a presumptive positive testing from at home test kits or other provider sources. The program has successfully served over 2,460 patients in Pima County. The end of the public health emergency will have no direct impact on provision of those services which at this time are planned to continue as long as there is federal ARPA funding available. However, individuals may be responsible for the medication cost depending on their insurance status.

### **Hospital Capacity**

- With the end of the public health emergency, hospitals will lose flexibility to expand capacity to respond to surges. Hospitals will no longer be able to use expansion sites such as convention centers, vacant stores, tents or other spaces. They will also no longer be able to use skilled nursing facilities (SNF) for patients non SNF patients. Flexibility on the 25-bed limit for critical access hospitals and the 96-hour rule for average length of stay will also end.

### **AHCCCS and CHIP Health Coverage**

- During the public health emergency, Medicaid and CHIP beneficiaries remained eligible for public health coverage without re-enrollment. Beginning April 1 (as described in the Consolidated Appropriations Act of 2023), those enrolled in health coverage will once again need to provide proof of eligibility. The number of those losing eligibility in Pima County is estimated to be between 35,354 and 90,000 individuals. An estimated 85 percent of those who lose coverage may be still eligible for Medicaid but need to provide updated contact or eligibility information.
- During the public health emergency, co-payments for Medicaid and CHIP and premiums for CHIP in Arizona were suspended. They will resume with the end of the public health emergency.
- Prior-authorization requirements for pharmaceuticals for Medicare, Medicaid or CHIP suspended during the pandemic will resume with the end of the public health emergency.

### **Liability Immunity**

- As of October 1, 2024, (according to the PREP Act), liability immunity will end, meaning that fewer professionals will be able to administer vaccines. Currently, pharmacists and pharmacy interns are able to provide vaccines to children ages 3-18 (pre-empting states that have age limits) and healthcare providers who do not have in-state licensure or who have not been licensed in the past 5 years are able to provide vaccines. This may impact PCHD ability to recruit medical volunteers to assist with vaccination efforts.

### **Emergency Use of Non-FDA Approved Pharmaceuticals**

- As part of the public health emergency, the HHS Secretary allowed for the authorization of emergency use of drugs and biological products. The timing to conclude the emergency use authorization is yet to be determined; it will NOT conclude on May 11, 2023.

### **WIC Services**

- Provision of services in person will be required to restart beginning 90 days after the end of the public health emergency. This change may potentially result in lower productivity and staff turnover. At the same time, there are federal discussions to make remote service provision permanent.

### **Asylum Seekers and Title 42**

- Title 42 of the Public Health Services Act allowed the Director of the CDC to suspend entry of individuals into the US to protect public health. The Biden administration had announced plans to end the suspension of entry in May 2022.

- The end of Title 42 will have significant impacts on the flow of asylum seekers coming across the US-Mexico border and into Pima County. Over a dozen Pima County Departments are currently involved in the border response, including Emergency Management, Procurement, Grants Management and Innovation, Community Workforce Development, Libraries, Fleet Services, and others. PCHD provides COVID-19 testing of all arriving asylum seekers, medical support and isolation for asylum seekers who test positive.
- If COVID-19 antigen tests or other supplies are no longer provided to states and counties by the Federal government due to the end of the emergency order, this will increase the cost of providing testing to asylum seekers exponentially and may limit PCHD's efforts to protect the public's health and limit the spread of disease.
- With the lifting of Title 42, the average number of people seeking care each day is anticipated to increase. Throughout 2022, the average daily number of those seeking care was 224 people. However, in the fall of 2022, the number increased dramatically to peak in September 2022 with 770 asylum seekers in one day. With the end of Title 42, Border Patrol estimates that Pima County's humanitarian partners may receive up to 1,200 to 1,500 people per day. These numbers would overwhelm the existing infrastructure without significant federal support.

c: Kim VanPelt, Health Department Deputy Director, Programming and Development