



Expiring State COVID-19 Emergency Declarations: Effects on Federal Aid

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Some states, tribes, and territories (hereinafter “states”) may consider rescinding or sun-setting their state-level emergency and disaster declarations, as states make progress in containing the Coronavirus Disease 2019 (COVID-19) pandemic. Regardless of state decisions, the federal declarations of a public health emergency (under Section 319 of the Public Health Service Act (42 U.S.C. § 247d)), two national emergencies (under the National Emergencies Act (50 U.S.C. §1601 et seq.) and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §§5121 et seq., henceforth referred to as the Stafford Act)) and major disasters for each state (also under the Stafford Act) remain in place. This Insight examines the potential impact of lapsing state emergency declarations on the availability of federal aid, either generally or with respect to certain expenses, provided through the Stafford Act as well as five COVID-19 related supplements, including

- the [Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020](#) (P.L. 116-123);
- the [Families First Coronavirus Response Act](#) (FFCRA, P.L. 116-127);
- the [Coronavirus Aid, Relief, and Economic Security Act](#) (CARES Act, P.L. 116-136);
- the [Paycheck Protection Program and Health Care Enhancement Act](#) (P.L. 116-139); and
- the [Continuing Appropriations Act, 2021 and Other Extensions Act](#) (P.L. 116-159).

To find provisions where assistance is tied to state emergency declarations, CRS queried the five acts listed above using the search terms “state” and variations of the word “declaration” and “declare.” Due to the complexity and volume of legislative language, and limitations of text searching generally, the identified examples may not be comprehensive.

Emergency Response Programs and Activities

The termination of a state emergency declaration does not directly impact the availability of Stafford Act assistance for the COVID-19 pandemic administered by FEMA. The Stafford Act [declarations for the COVID-19 pandemic](#) authorized Public Assistance (PA) for emergency protective measures. Through the PA program, FEMA may reimburse state, local, tribal, territorial, and eligible nonprofit entities for the

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costs of [eligible emergency protective](#) measures undertaken in response to the pandemic. These include, but are not limited to,

- [distribution and administration of vaccines](#),
- [emergency medical care costs](#),
- [purchase and distribution of food](#),
- [alternate care sites](#),
- [non-congregate sheltering](#),
- [mobilization of National Guard](#), and
- [purchase and distribution of PPE](#).

It is possible that the termination of the state emergency declaration could impede the jurisdiction's own ability to deliver emergency services. This may, in turn, affect the state's ability to request PA reimbursement. For example, FEMA [guidance](#) states that it may approve assistance for non-congregate sheltering if such sheltering is "at the direction of and documented through an official order signed by a state, local, tribal, or territorial public health official" or "done in accordance with the direction or guidance of health officials by the appropriate state or local entities, in accordance with applicable state and local laws." Without a state declaration or public health order that directs the usage of non-congregate shelters, FEMA may not approve a request for PA reimbursement of this type.

Federal Eviction Moratoriums

The U.S. Centers for Disease Control and Prevention's (CDC's) federal eviction moratorium only applies where more protective measures are not provided by state and local governments. Some state and local eviction moratoriums may be tied to state and local declarations of emergency or disaster. Therefore, even if a state emergency declaration terminates and eliminates local protections, the CDC's federal eviction moratorium would enter into effect to provide eviction protection in those jurisdictions. More information is available [here](#).

Public Health and Medical Care Programs and Activities

No provisions or assistance related to public health and medical care activities in the aforementioned bills were found to be dependent on a state emergency declaration.

Supplemental Nutrition Assistance Program (SNAP)

The FFCRA (P.L. 116-127) included an authority for states to increase SNAP benefits (see Section 1101(a)) up to the maximum benefit amount; however, a state emergency declaration is required. These increases are referred to as "Emergency Allotments." The provision is authorized only when both federal and state emergencies are in place, specifically "in the event of a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) and the issuance of an emergency or disaster declaration by a State based on an outbreak of COVID-19." Without an active state emergency declaration, states would not be authorized to provide emergency allotments.

More information on how the FFCRA's emergency allotments policy has been implemented is available [here](#). Current USDA guidance and information about SNAP emergency allotments is available on the USDA Food and Nutrition Service [website](#).

Telecommunications Programs

No provisions or assistance related to telecommunications programs (including support for broadband) in the aforementioned bills were found to be dependent on a state emergency declaration.

Transportation Programs

No provisions or assistance related to public transit, air travel, or other transportation programs in the aforementioned bills were found to be dependent on a state emergency declaration.

Lapsing Stay-at-Home Orders and Other Government Restrictions

The lapse of the state emergency declaration may affect a state’s ability to impose “stay-at-home” or other orders that require the full or partial restriction of personal movement, business operations, and other societal functions. Although not directly tied to the lapse of a state-level emergency declaration, the lapse of emergency powers may affect other forms of relief.

One example is the [employee retention tax credit](#). Businesses that are required to fully or partially suspend operations due to a COVID-19-related order may qualify for this tax credit (although having business operations suspended due to a COVID-19-related order is not the only pathway to eligibility). Similarly, FEMA may approve assistance for the purchase and distribution of food based on several indicators, including “reduced mobility of people in need due to government-imposed restrictions, including ‘stay-at-home’ orders, which may prevent certain populations from accessing food.” As above, if the rescission of a state emergency declaration affects “stay-at-home” orders or other government restrictions, FEMA may not approve a request for food assistance that may otherwise be available under the Stafford Act.

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