



## ERC - Fact or Fiction

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## HHFMA Membership Benefits

- Network with peers in home health financial management
- Access to exclusive HHFMA Call with Experts, discussion groups, and benchmark reports
- Serve as an advocate for change in Washington
- Grow leadership skills, chance to serve on HHFMA and NAHC Boards
- Coordinate educational programs exclusively for financial managers
- Develop timely policy reports issued to Congress and the media
- Access to best practices in home care and hospice financial management

### How do I join?

Membership is open to current members of the National Association for Home Care & Hospice (NAHC) and costs only \$100 per year. If you have any please call:

(202) 547-7424 or email [membership@nahc.org](mailto:membership@nahc.org)

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# Home Health Financial Status 2019 - 2021

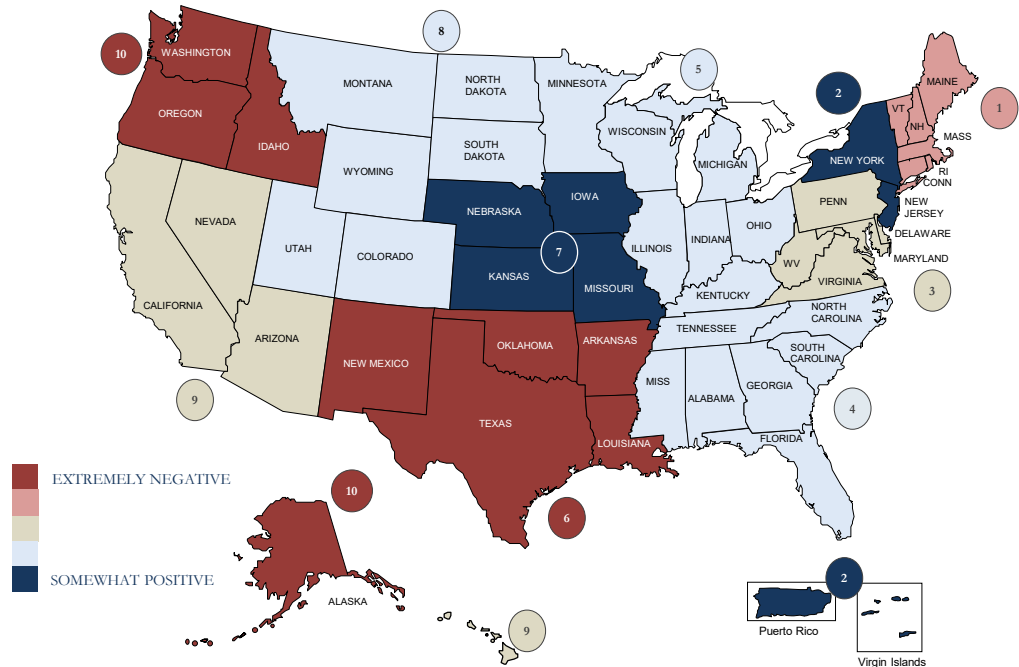
Year	Avg Net Patient Revenue
2019	\$6,591,086
2020	\$4,184,154
2021	\$4,499,583

Source: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Downloadable-Public-Use-Files/Cost-Reports/Cost-Reports-by-Fiscal-Year>

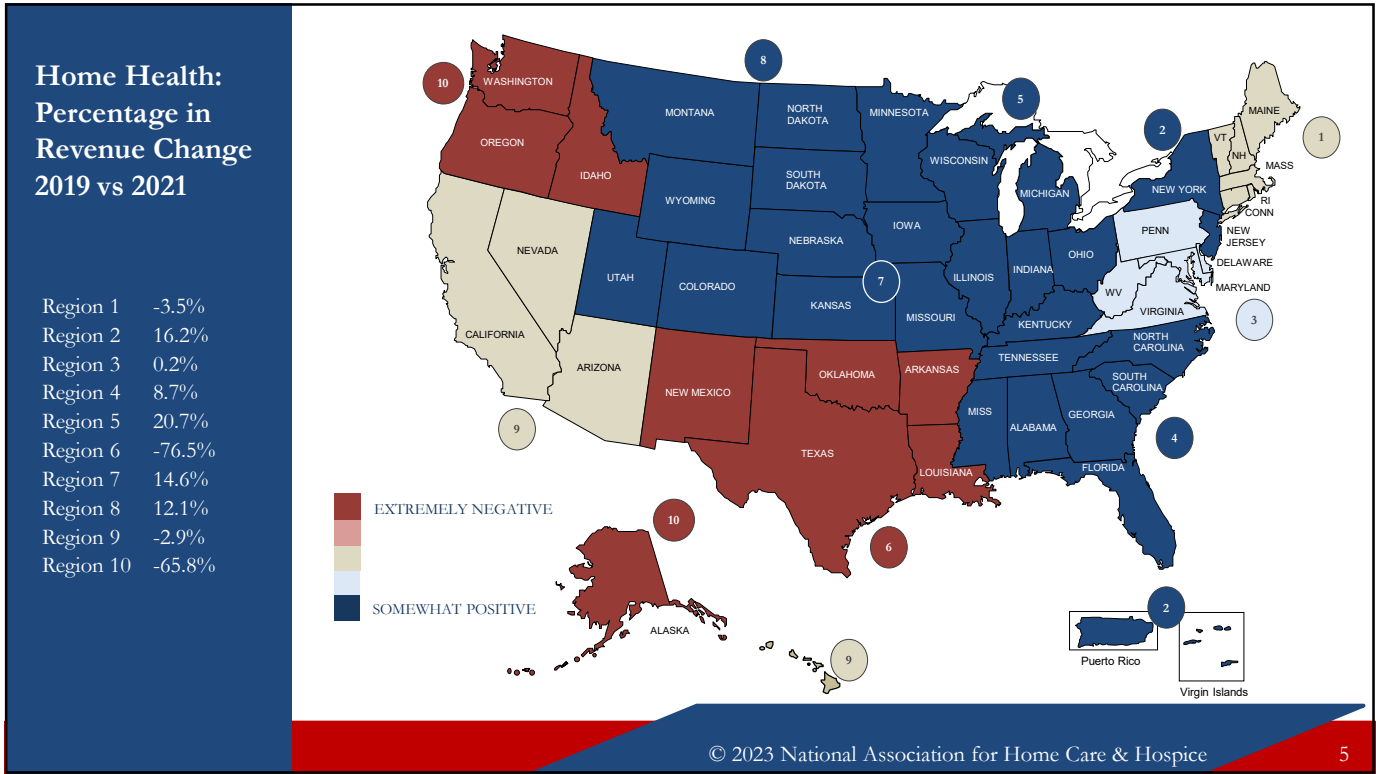
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## Home Health: Percentage in Home Health Revenue Change 2019 vs 2020

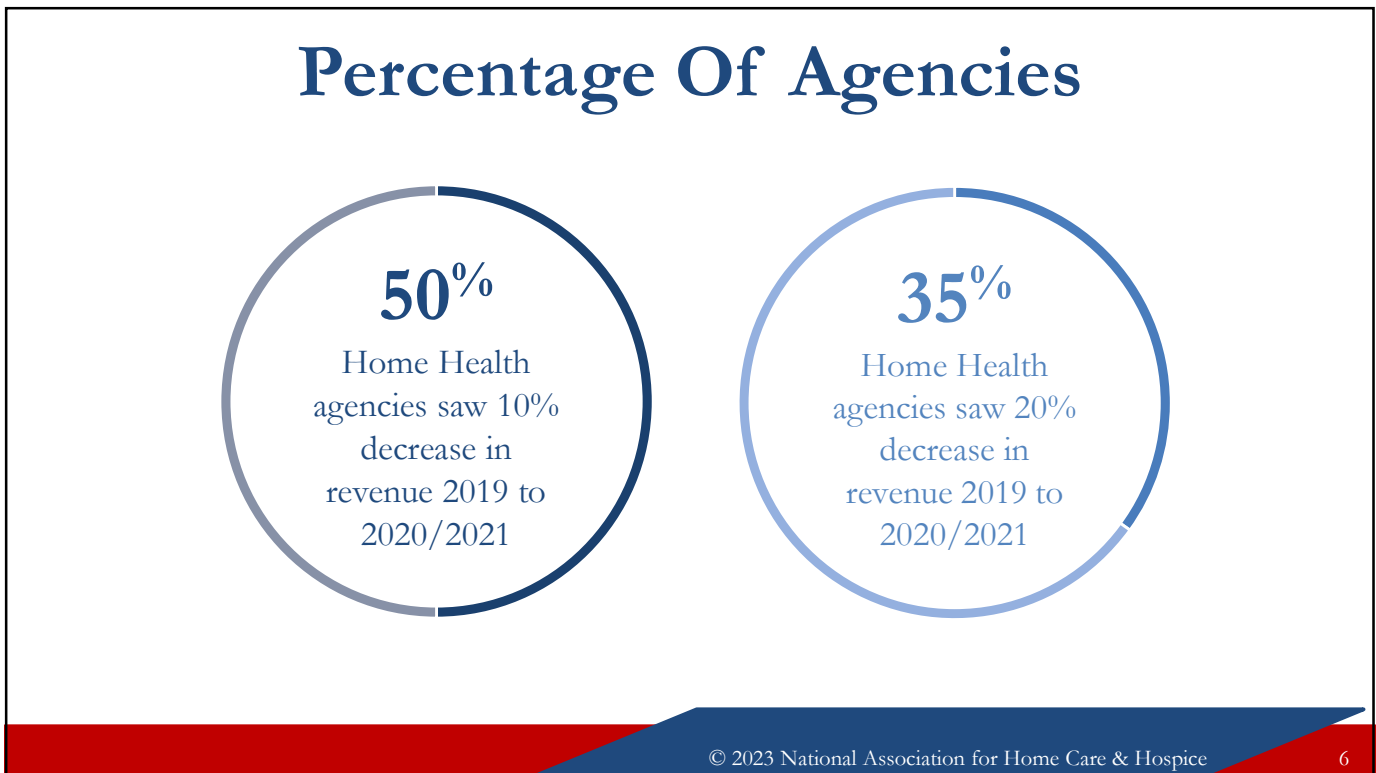
- Region 1 -14.0%
- Region 2 9.2%
- Region 3 -3.9%
- Region 4 0.0%
- Region 5 1.0%
- Region 6 -77.4%
- Region 7 11.2%
- Region 8 0.0%
- Region 9 -3.4%
- Region 10 -66.8%



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## Number of Home Health Patients and In-Person Visits 2019-2021

**TABLE 8-2**

In 2021, the share of FFS beneficiaries using home health care increased, while the number of in-person home health visits per user declined

	Prepandemic			Pandemic		Average annual percent change	
	2017	2018	2019	2020	2021	2017-2019	2020-2021
Medicare FFS home health users (in millions)	3.4	3.4	3.3	3.1	3.0	-1.7%	-1.1%
Share of FFS beneficiaries using home health care	8.8%	8.7%	8.5%	8.1%	8.3%	-1.3	2.5
Total visits (in millions)	104.8	103.9	99.7	81.1	76.8	-2.5	-5.3
In-person visits per user	30.7	30.8	30.2	26.6	25.4	-0.8	-4.2
30-day periods (in millions)				9.6	9.3		-2.9
30-day periods per 100 FFS Medicare beneficiaries				25	26		0.7

Note: FFS (fee-for-service). Percentage change was calculated on unrounded data.

Source: MedPAC analysis of home health standard analytic files from CMS and the 2022 annual report of the Boards of Trustees of the Medicare trust funds.

## In-Person Visits by Discipline 2019 - 2021

**TABLE 8-4**

In 2021, the number of in-person visits per 30-day period declined

	Prepandemic		Pandemic		2019-2021		2020-2021	
	2019	2020	2021	Change in number of visits	Average annual percentage change	Change in number of visits	Average annual percentage change	
Skilled nursing	4.6	4.6	4.3	-0.3	-3.7%	-0.3	-8.0%	
Physical therapy	3.5	2.9	3.0	-0.6	-10.0	0.1	1.1	
Occupational therapy	1.1	0.9	0.8	-0.3	-18.3	-0.1	-1.5	
Speech-language pathology	0.2	0.2	0.2	-0.1	-20.5	-0.1	-5.2	
Medical social services	0.1	0.1	0.1	0.1	-20.8	-0.1	-8.4	
Home health aide	0.7	0.6	0.5	-0.2	-18.5	-0.1	-14.5	
Total	10.2	9.2	8.8	-1.4	-8.1	-0.4	-4.7	

Note: Home health services initiated in 2019 were paid under 60-day episodes. For this table, home health care services initiated in 2019 were recalculated as 30-day periods to provide comparable units of service in the two years. Thirty-day periods are included in the year that the period ended. Components may not sum to totals due to rounding. Visit counts have been rounded. "Change in number of visits" and "average annual percentage change" columns were calculated on unrounded data.

Source: MedPAC analysis of 2019 home health Limited Data Set file and standard analytic files for 2020 and 2021.

While this is a legitimate credit that provides a financial lifeline to millions of businesses, there continue to be promoters who aggressively mislead people and businesses into thinking they can claim these credits.

- Acting IRS Commissioner Doug O'Donnell,

## Employee Retention Credit Overview

Established under the Coronavirus Aid, Relief, and Economic Security Act (Cares) Act

- Effective March 27, 2020
- Up to \$5k payroll tax credit per employee
- Originally NOT available to PPP loan recipients

Modified under the Consolidated Appropriations Act (CAA)

- Effective December 27, 2020
- Several retroactive & prospective changes, including availability of program for PPP loan recipients

## Employee Retention Credit Overview

ERC Under the Cares Act

**Payroll tax credit equal to 50% of qualified wages paid**

- Up to \$5K credit per employee (EE) (based on \$10k of qualified wages per EE)
- Applies to wages paid March 13 – December 31, 2020

**No employee count limit. However, wages eligible for the credit vary based on FTE count**

## Employee Retention Credit Overview

What is an eligible employer?

Must meet 1 of 2 criteria:

- Gross receipts for calendar quarter in 2020 are less than 50% of gross receipts for the same calendar quarter in 2019, **OR**
- Full or partial suspension of business operations during 2020 as a result of government order limiting commerce, travel or group meetings due to COVID-19

## Partial Suspension of Business Operations Requirements

### Did government order detrimentally affect your business?

- Full suspension of operations not required, essential businesses still eligible
- Has to be a mandate, NOT recommendations
- Were you required to change your business practices materially?

### Did the orders detrimentally impact your business more than a nominal amount?

- Defined as greater than 10%

## Employee Retention Credit Overview

### Average FTEs 100 or fewer

- Wages paid to ALL employees during the qualified disruption period
- Includes healthcare costs

### Average FTEs Over 100

- Wages paid to employee not providing some or all services during qualified disruption period
- Includes healthcare costs

*Note – The 100-employee count applies to computation of 2020 qualified wages and is based on 2019 full-time employee headcount on an aggregated basis. Changes to the 2021 ERC calculation detailed later in this presentation.*

## COVID Relief Bill + Cares Act

COVID Relief Bill – Impact  
on ERC

- On December 27, 2020, the president signed into law the Consolidated Appropriations Act, 2021 (“CAA” OR “COVID Relief Bill”)
- The CAA/COVID Relief Bill significantly bolsters the ERC originally introduced by the CARES Act in March 2020

## 2021 Enhancements

- Extended the credit through September 30, 2021
- Allowed PPP loan recipients the ability to claim the ERC
  - Wages covered by the PPP loan cannot be considered for the credit
- Reduced the gross receipts test threshold from 50% to 20%
- May claim up to **70%** of qualified wages and health plan expenses (up to \$10,000 per employee) **per quarter**
- Added the alternative quarter election
- FTE count to qualify as a “large employer” went from 100 to 500



# Pitfalls in Picking a Trusted Advisor

## Read Engagement Letter Thoroughly

- Obligation to pay if you disagree with eligibility?
- Do they provide an audit defensible deliverable, or just promise to defend it if chosen for audit?
- If contingency fee, paid at receipt of credit?
- Do a Google search

## Deliverables

- Ask for example of an eligibility memo specific to your industry to review before signing
- Is preparing/signing the 941X part of deliverable?
- Have CPA review deliverables before income tax return amendment

## Fact or Fiction

Our Organization was considered an essential business therefore our operations cannot be considered partially suspended.

**Fiction:** An essential business may be considered to have a full or partial suspension of operations based on government order restrictions or if the business' suppliers restrictions impact the organization's ability to provide its goods or services.

## Fact or Fiction

Provider relief funding needs to be removed to avoid “double dipping”. Also, like the provider relief funds the credit could trigger a single audit.

**Fiction:** Provider relief funding should not be excluded from gross receipts for the credit and wages that were funded by a PRF distribution and can be claimed for the credit. Unlike PRF, the ERC will not be subject to the single audit rules.

## Fact or Fiction

I've engaged with a 3<sup>rd</sup> party vendor, therefore our organization can rely on them to determine our eligibility for the credit.

**Fiction:** Management must be knowledgeable about the credit and make the final determination on ERC eligibility. There will be no recourse against the 3<sup>rd</sup> party vendor if the credit is audited and required to be returned, potentially with penalties and interest.

## Fact or Fiction

If I am not eligible for ERC based on the gross receipts decline test I may still be eligible based on a partial suspension due to government orders even if my revenue increased.

**Fact:** Having an increase in revenue does not automatically preclude you from claiming ERC, but you still need to demonstrate that the government orders negatively impacted your business by a more than nominal amount.

## Fact or Fiction

The ERC topped the list of the IRS' dirty dozen fraud list, therefore the chance of being audited is high.

**Fact:** The IRS is looking closely at this credit due to rampant fraud in the program and has extended the audit period from 3 to 5 years for some quarters.

## Fact or Fiction

The government is going to run out of money that it has appropriated to this credit.

**Fiction:** The ERC is an unfunded program with no established cap on the amount it would pay out.

## Fact or Fiction

Non profits do not have to aggregate when determining eligibility for ERC or if they are a small vs. large employer.

**Fiction:** While the ERC guidance is silent specifically on non profits, other tax law shows that some non profits may need to aggregate based on their facts & circumstances.

## Fact or Fiction

National CDC or OSHA guidance of standing six feet apart or wearing masks is not enough to create eligibility for the ERC.

**Fact:** National CDC or OSHA COVID guidance are not considered orders or mandates, and is not believed to meet the criteria to create eligibility for the ERC.

## Fact or Fiction

In 2022 President Biden updated the rules to be eligible for ERC and now 90% of companies are eligible for claim the credit.

**Fiction:** President Biden has not been involved in the ERC program or updated any of the rules for eligibility, and no additional guidance has been received by the IRS on the ERC since summer of 2021.

# Questions?

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## Upcoming Events

**2023 Financial Management Conference (FMC)**  
**July 16-18, 2023 | New Orleans, LA**

**2023 NAHC Home Care and Hospice Conference & Expo**  
**October 15-17, 2023 | National Harbor, Maryland**

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