

## A PROVIDER'S GUIDE: Federal Telehealth Policy and Requirements During COVID-19

Rapid developments with the COVID-19 pandemic have resulted in a set of broad expansions of telehealth policy, including key changes to both public and private payer payment policies, at least for the duration of this emergency period. This guide is meant to help healthcare providers and organizations get up to speed quickly on these changes and key components of telehealth payment at the federal level. Please keep in mind that events and policies are changing rapidly, and that this document will be updated frequently as new information and policies become available/are enacted.

### ***Center for Medicare and Medicaid Services (CMS)***

CMS has modified requirements under the COVID-19 Emergency Declaration. Specific changes that impact the delivery of telehealth services during the emergency are summarized below:

1. Waives requirements that out of state providers be licensed in the state where they are providing services when they are licensed in another state—applies to Medicare and Medicaid.
2. Allows for temporary Medicare billing privileges for non-enrolled providers, waiving application fee, criminal background check; postpones all revalidation actions for enrolled providers; allows providers to bill for services outside their state of enrollment; expedites existing applications for enrollment.
3. Allows for waiver applications from states to deal with the public health emergency under Section 1135 of the Social Security Act.
4. Removed limitations on where Medicare patients are eligible to receive telehealth services. All patients are eligible for telehealth services regardless of where they live (previously only those who live in rural areas were eligible for telehealth), and patients may receive these services at their home.
5. CMS will not enforce the requirement that patients have a previously established relationship with a provider in order to receive telehealth services, i.e. new patients may receive these services.
6. Allows for the use of phones with audio and video capabilities to provide billable services. Effective with the additional waivers discussed below, there are now some services that may be provided to a phone that only has audio-only capabilities (CPT 98966-98968, 99441-99443).

On March 30, 2020, CMS made further rules and waivers of federal requirements to ensure the health system has the capacity to fully respond to the emergency. These changes are intended to assist in further promoting the use of telehealth in Medicare. An overview of the changes from CMS is available at: [Summary of COVID-19 Emergency Declaration Waivers & Flexibilities for Health Care Providers \(PDF\)](#)

### General Services

1. CMS expanded the types of telehealth services that can be furnished through telehealth
  - a. These include emergency department visits (levels 1 to 5); initial and subsequent observation and observation discharge day management; initial hospital care and hospital discharge day management; initial nursing facility visits and nursing facility discharge day management; critical care services; domiciliary, rest home, or custodial care services; home visits; inpatient neonatal and pediatric critical care; Intensive Care Services; Care Planning for patient with Cognitive Impairment; Psychological and Neuropsychological testing; Physical and Occupational Therapy; Radiation Treatment Management Services; and Licensed Clinical Social Worker, Clinical Psychologist,

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Physical Therapy, Occupational Therapy, and Speech Language Pathology can be paid as Medicare telehealth services. **The full list of billable telehealth services and codes is available at:** <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>

2. Virtual Check-In services are now allowed with patients who have not had a previous relationship with their provider, i.e. new patients (G2010, G2012).
  - a. Virtual Check-Ins allow patients to talk to a doctor or certain other practitioners, like nurse practitioners or physician assistants, using a device like a phone, integrated audio/video system, or captured video image without going to the doctor's office. Providers may respond using: Phone; Audio/visit; Secure text messages; Email; or Use of a patient portal (<https://www.medicare.gov/coverage/virtual-check-ins>).
3. In addition, LCSWs, Clinical Psychologists, Physical Therapists, Occupational Therapists, and Speech Language Pathologists can provide e-visits (G2061-G2063).
  - a. E-visits allow patients to talk to their provider using an online patient portal without going to the office. In addition to those named above, practitioners who may furnish these services include: Doctors, Nurse practitioners, and Physician Assistants (<https://www.medicare.gov/coverage/e-visits>).
4. Remote patient monitoring may be used for COVID-19 patients and those with other acute and chronic conditions and can now be provided to patients with only one disease (99091, 99457-58, 99473-74, 99493-94).
5. CMS is also allowing a broad range of clinicians, including physicians, to provide visits through audio-only phones for those without a phone with video capabilities or without an internet connection (98966-98968, 99441-99443).
6. CMS is also allowing commonly used interactive apps with audio capabilities for telehealth visits.

#### Telehealth to the Home

1. Individuals may receive care in their homes through telehealth, including for those in a nursing or assisted living facility.
  - a. CMS is waiving the requirement for physicians and other practitioners to perform in-person visits for nursing home residents and allowing visits to be conducted through telehealth where appropriate.

#### Specific Populations

1. Home health and hospice providers may provide more of the approved services through telehealth as long as it is part of the plan of care and does not replace needed in-person services or visits.
  - a. Individuals with medical contraindications (having a condition that makes them susceptible to contract COVID-19) or with suspected or confirmed COVID-19 in need of services will be considered homebound and qualify for the Medicare Home Health benefit.
  - b. Rural Health Clinics and Federally Qualified Health Centers may provide visiting nursing services to an individual's home anywhere in their services areas as a home health agency and the revised definition of homebound will apply with the allowed telehealth services.
2. CMS is allowing telehealth visits to fulfill face-to-face visit requirement of at least three days per week at inpatient rehabilitation facilities; hospice patient recertification; and home health visits within the 30-day episode of care.

- a. Medicare is allowing physicians to provide initiation of care planning and monthly physician visits for End Stage Renal Disease and for Dialysis home visits through telehealth and waiving some time period requirements.
  - b. CMS is also waiving requirements that physicians and non-physician practitioners perform in-person visits for nursing home residents and is allowing visits to be conducted, as appropriate, via telehealth.
3. A number of services no longer have limitations on the number of times they can be provided by telehealth:
- c. Inpatient visits may occur more frequently than previously allowed, including subsequent inpatient visits; subsequent skilled nursing facility visit; critical care consults; End Stage Renal Disease visits; National or Local Coverage Determination visits; Annual Consent may be obtained at the same time as visits; and visits for nursing home residents may occur as appropriate via telehealth.

#### Workforce

1. CMS has waived the requirement for Medicare and Medicaid that physicians and non-physician practitioners be licensed in the state where they are providing services with certain conditions, although state requirements still apply.
2. For services requiring the direct supervision by the physician or other practitioner, the physician supervision may be provided virtually using real-time audio/video technology.
3. CMS is waiving the requirement that Medicare patients in the hospital be under the care of a physician and that the physician be on call at all times, allowing for the use of physician assistants and nurse practitioners to the fullest extent possible (as long as this is not in conflict with a state's emergency preparedness or pandemic plan).
4. If a medical resident is providing care from home or in a patient's home within the scope of the approved residency program and with appropriate physician supervision requirements, the hospital may claim the resident for indirect medical education and direct graduate medical education payment purposes.
5. Teaching physicians may provide services with medical residents virtually through audio/video real-time communications technology, excluding surgical, high risk, interventional, other complex services provided through an endoscope, or anesthesia services.

#### Medicare Advantage/Payment

- 1) CMS is allowing Medicare Advantage Plans the ability to expand telehealth services beyond those included in their approved 2020 benefits.

**CMS has issued provider-specific fact sheets related to the waivers and with other information available at <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers> for:**

- Physicians and Other Practitioners;
- Ambulances;
- Hospitals;
- Teaching Hospitals, Teaching Physicians, and Medical Residents;
- Long-Term Care Facilities
- Home Health Agencies
- Hospices
- Inpatient Rehabilitation Facilities
- Long-Term Care Hospitals

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- Rural Health Clinics and Federally Qualified Health Centers
- Laboratories
- End Stage Renal Disease Facilities
- Durable Medical Equipment
- Medicare Diabetes Prevention Program; and
- Medicare Advantage and Part D Plans.

#### *Accelerated/Advance Payments*

In order to increase cash flow to providers, CMS has expanded its Accelerated and Advance Payment Program, intended to provide necessary funds when there is a disruption in claims submission and/or claims processing. Requests must be submitted to the appropriate Medicare Administrative Contractor meeting the required qualifications. MACs will provide payment within seven calendar days and the time period for repayment is extended: (<http://www.cms.gov/files/document/Accelerated-and-Advanced-Payments-Fact-Sheet.pdf>).

CMS is also extending deadlines for certain cost reporting (please see appropriate provider fact sheet for confirmation by provider type).

#### *Stark Law/Physician Self-Referral*

CMS has made certain blanket waivers of sanctions under the Stark Law, effective March 1. CMS will permit certain referrals and the submission of related claims that would otherwise violate the Stark Law. Specific areas of non-enforcement are outlined in the blanket waiver document at: <https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Spotlight>.

#### ***HIPAA-Federal Office of Civil Rights***

The Federal Office of Civil Rights, responsible for HIPAA compliance and investigation, has indicated that it will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. A covered health care provider that wants to use audio or video communication technology to provide telehealth to patients during the COVID-19 nationwide public health emergency can use any non-public facing remote communication product that is available to communicate with patients. (<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>)

#### ***Controlled Substances-Drug Enforcement Agency***

DEA-registered practitioners in all areas of the United States may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
- The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and
- The practitioner is acting in accordance with applicable Federal and State laws.

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Provided the practitioner satisfies the above requirements, the practitioner may issue the prescription using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations. Thus, the practitioner may issue a prescription either electronically (for schedules II-V) or by calling in an emergency schedule II prescription to the pharmacy, or by calling in a schedule III-V prescription to the pharmacy. (<https://www.dea diversion.usdoj.gov/coronavirus.html>)

### ***Office of Inspector General***

Reductions or waivers of costs for individuals enrolled in federal health programs such as coinsurance and deductibles have previously not been allowed. During the period of the emergency, OIG will not subject physicians and other practitioners to OIG administrative sanctions for arrangements that reduce these costs as long as they satisfy both of the following conditions:

1. A physician or other practitioner reduces or waives cost-sharing obligations (i.e., coinsurance and deductibles) that a beneficiary may owe for telehealth services furnished consistent with the then-applicable coverage and payment rules.
2. The telehealth services are furnished during the time period subject to the COVID-19 Declaration.

(<https://oig.hhs.gov/fraud/docs/alertsandbulletins/2020/policy-telehealth-2020.pdf>)

### ***Private Payers***

Many private payers are following CMS rule changes and recommendations in terms of allowed and billable services.

Below are links to information from some of the larger private insurers. These links are to national websites, and may not reflect actions or decisions specific to your state.

- Aetna – [COVID-19 Service Enhancements](#)  
[COVID-19 Approved Behavioral Health Telemedicine Services](#)
- Ambetter-- <https://www.ambetterhealth.com/coronavirus.html.html>
- Anthem – [COVID-19 Service Enhancements](#)
- Blue Cross and Blue Shield Companies – [COVID-19 Service Enhancements](#)
- Blue Cross and Blue Shield Federal Employee Program – [COVID-19 Service Enhancements](#)
- Centene-- <https://www.centene.com/covid-19-resource-center.html>
- Humana – [COVID-19 Service Enhancements](#)
- United Health Care – [COVID-19 Telehealth Services](#)

**Telehealth Policy Resources:**

- [Medicare Learning Network Booklet – Telehealth Services \(2020\)](#)
- [Medicare Telemedicine Health Care Provider Fact Sheet](#)
- [Telehealth Coverage Policies in the Time of COVID-19](#) – Center for Connected Health Policy
- [Billing for Telehealth Encounters: An Introductory Guide to Fee-for-Service](#) – Center for Connected Health Policy
- March 19, 2020 NCTRC Telehealth and COVID-19 Webinar PowerPoint:  
[https://www.telehealthresourcecenter.org/wpfd\\_file/nctrc-covid-19-webinar-mar-19-2020-mwk/](https://www.telehealthresourcecenter.org/wpfd_file/nctrc-covid-19-webinar-mar-19-2020-mwk/)

**Telehealth Training and Other Relevant Resources:**

- [Telehealth Coordinator eTraining](#) – California TRC and Northeast TRC
- [Tips for Professional Videoconferencing and Telepresenting](#)
- [A Physicians Guide to COVID-19](#) – American Medical Association
- [Telehealth and COVID-19 Toolkit](#) – National Consortium of Telehealth Resource Centers
- <https://www.ama-assn.org/practice-management/digital/ama-quick-guide-telemedicine-practice> AMA Quick Guide to Telemedicine in Practice

General Resources related to the provision of Telehealth Services are available on the HTRC website at: <http://heartlandtrc.org/>

COVID-19 Telehealth Resources are available on the HTRC website at:  
<http://heartlandtrc.org/covid-19>

National Consortium of Telehealth Resource Centers Resources are available at:  
<https://www.telehealthresourcecenter.org/>

**Questions? Contact the Heartland Telehealth Resource Center:**

Email: [jgracy@kumc.edu](mailto:jgracy@kumc.edu) or via our website: <https://heartlandtrc.org>