Delta Region Community Health Systems Development (DRCHSD) Program

Telehealth Insights Post Public Health Emergency (PHE)

National Rural Health Resource Center

The Center's Purpose

The National Rural Health Resource Center (The Center) is a nonprofit organization dedicated to sustaining and improving health care in rural communities. As the nation's leading technical assistance and knowledge center in rural health, The Center focuses on five core areas:

- Transition to Value and Population Health
- Collaboration and Partnership
- Performance Improvement
- Health Information Technology
- Workforce

DRCHSD Program Supported by FORHP and DRA

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Diversity, Equity, Inclusion, & Anti-racism

Building a culture where difference is valued

The Center is committed to DEI and anti-racism. We create an environment that reflects the communities we live in and serve; a place where everyone feels accepted and empowered to be their full, authentic selves; and where everyone belongs.

We understand the impact of and seek to defeat racism and discrimination in ourselves, our workplace, and the world. This guides how we cultivate leaders, build our programs and resources, and deliver our technical assistance.

We are an organization that honors, celebrates, and respects all dimensions of diversity. These principles are central to our mission and to our impact.

https://www.ruralcenter.org/about/dei

Pre-Polling Questions

1. I am ___ in my understanding of how updates to Public Health Emergency (PHE) related waivers can impact my organization's daily workflow.

2. I am ___ in my understanding of how to ensure successful implementation and utilization of telehealth services in the long term.

Todays Speakers

Stacey Gee, COC, CRCR, CPHT

Managing Consultant

FORVIS

Valorie Clouse, FNP, AGNP, CCM

Senior Managing Consultant

FORVIS

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Telehealth Insights Post Public Health Emergency

August 31, 2023

DISCLAIMER

The educational materials provided herein, & the topics covered in this session are based on guidelines established by the Centers for Medicare & Medicaid Services (CMS).

These materials were created to provide information regarding leading practices, service code regulations, impact on pay for performance, & additional strategies. Materials relied upon the date of this report & education, would need to be evaluated further for continued applicability as regulations are updated frequently. FORVIS has no contractual obligation to update these materials & disclaims all liability relating thereto.

We have created these materials subject to consulting standards, not attest standards & our activities do not constitute an audit &, accordingly, we are not issuing an opinion or providing assurance relative to the subject matter.

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MEET THE PRESENTERS

Valorie Clouse

Senior Managing Consultant

valorie.clouse@forvis.com

Stacey Gee

Managing Consultant

stacey.gee@forvis.com

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Agenda

- Overview of PHE Ending
- Permanent Medicare changes in Telehealth
- Temporary Medicare changes thru December 31, 2024
- Temporary flexibilities set to expire on May 11, 2023
- Audit Considerations for Telehealth Services

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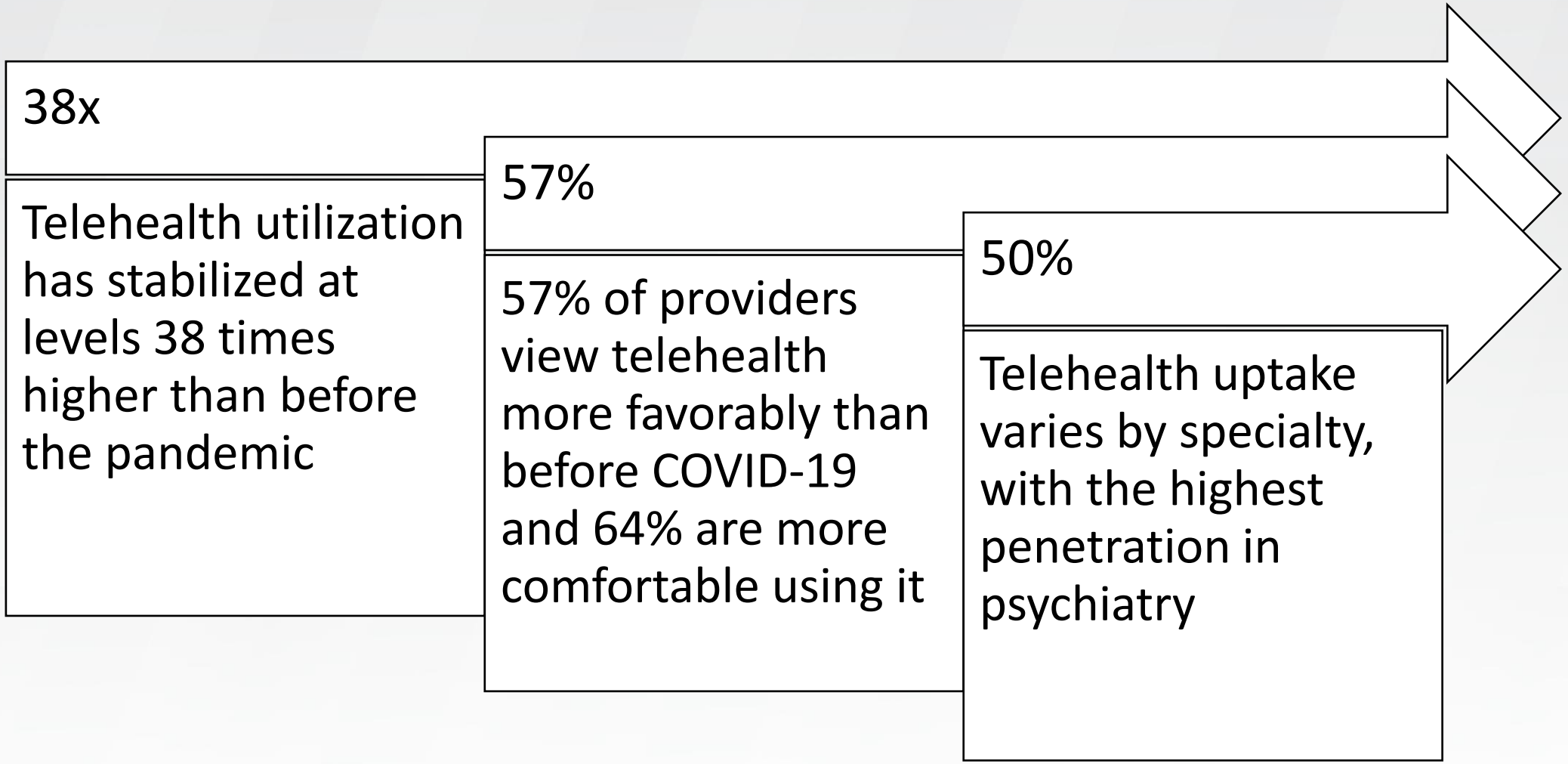
Telehealth Trends



Source: Telehealth: “A quarter-trillion-dollar post-COVID-19 reality?” McKinsey & Company, July 2021

Public Health Emergency Countdown- Telehealth

On December 3, 2020, the Department of Health and Human Services (HHS) offered grants to support broader use of telehealth services including in Medicare, private insurance, and through other federally funded providers – all in response to COVID.

The current Administration has announced its intent to end the COVID public health emergency (PHE) on May 11, 2023.

Upon the end of the PHE, some telehealth policies will end immediately, other policies will have an allowance for transition (December 31, 2024), and some policies will remain.

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The Consolidated Appropriations Act, 2023

The *Consolidated Appropriations Act, 2023,* extended many telehealth flexibilities through December 31, 2024, such as:

- People with Medicare can access telehealth services in any geographic area in the United States, rather than only those in rural areas.
- People with Medicare can stay in their homes for telehealth visits that Medicare pays for rather than traveling to a health care facility.
- Certain telehealth visits can be delivered audio-only (such as a telephone) if someone is unable to use both audio and video, such as a smartphone or computer.

Source: CMS Waivers, Flexibilities, and the Transition Forward from the COVID-19 Public Health Emergency | CMS

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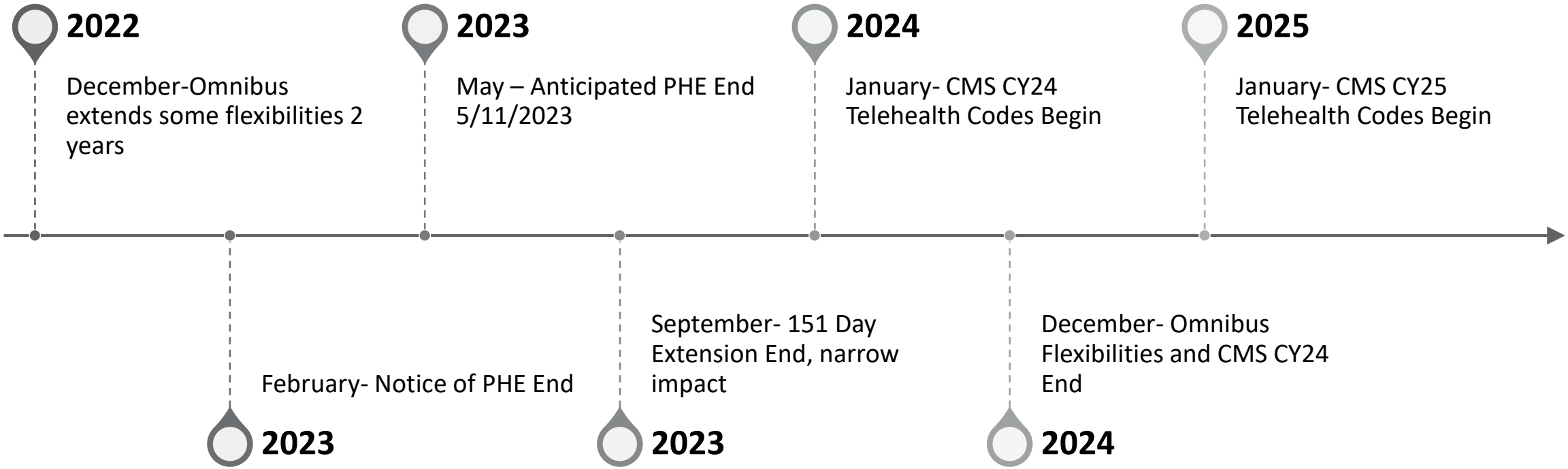
Key Dates


2022
December-Omnibus extends some flexibilities 2 years
2023
February- Notice of PHE End
2023
May – Anticipated PHE End 5/11/2023
2023
September- 151 Day Extension End, narrow impact
2024
January- CMS CY24 Telehealth Codes Begin
2024
December- Omnibus Flexibilities and CMS CY24 End
2025
January- CMS CY25 Telehealth Codes Begin

Types of service delivered via telehealth

Live Audio/Video	Virtual Check-Ins/ E-Visits	Remote Physiologic Monitoring
• Real-time, two-way audiovisual connection between patient and provider (synchronous)	• Patient initiated • Transmission of recorded health information to a provider (asynchronous)	• Use of electronic tools to monitor and record a patient's physiological status which transmit the data toa provider in a setting other than where the patient is physically located

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Source: Medicaid & CHIP and the COVID-19 Public Health Emergency: Preliminary Medicaid and CHIP Data Snapshot - Services through January 31, 2022, https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet

MEDICARE & TELEHEALTH

Prior to the Public Health Emergency

- Medicare only paid for telehealth services under limited circumstances
  - Limited "originating sites" (*i.e.*, patient location)
    - *Designated rural areas*
    - *Specific facility locations (patient home was NOT an originating site)*
    - *Some demonstration projects*
  - Limited modalities: "telecommunication system" – CMS regulations require two-way audio & video
  - Limited eligible professionals & providers (did not include FQHCs & RHCs)
  - Limited CMS list of telehealth codes

Source: Fact Sheet: COVID-19 Public Health Emergency Transition Roadmap | HHS.gov

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MEDICARE & TELEHEALTH, CONTINUED

After the Public Health Emergency

- People with Medicare can access telehealth services in any geographic area in the United States, rather than only those in rural areas
- People with Medicare can stay in their homes for telehealth visits that Medicare pays for rather than traveling to a healthcare facility
- Certain telehealth visits can be delivered audio-only (such as a telephone) if someone is unable to use both audio & video, such as a smartphone or computer

Source: Fact Sheet: COVID-19 Public Health Emergency Transition Roadmap | HHS.gov

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Medicare Advantage, ACO and Telehealth

- Medicare Advantage plans may offer additional telehealth benefits.
  - Individuals in a Medicare Advantage plan should check with their plan about coverage for telehealth services.
- Additionally, after December 31, 2024, when these flexibilities expire, some Accountable Care Organizations (ACOs) may offer telehealth services that allow primary care doctors to care for patients without an in-person visit, no matter where they live.
  - If your health care provider participates in an ACO, check with them to see what telehealth services may be available.

Source: Fact Sheet: COVID-19 Public Health Emergency Transition Roadmap | HHS.gov

MEDICAID, CHIP, & TELEHEALTH

- For Medicaid & CHIP, telehealth flexibilities are not tied to the end of the PHE & have been offered by many state Medicaid programs long before the pandemic. Coverage will ultimately vary by state. CMS encourages states to continue to cover Medicaid & CHIP services when they are delivered via telehealth.
- To assist states with the continuation, adoption, or expansion of telehealth coverage, CMS has released the State Medicaid & CHIP Telehealth Toolkit & a supplement that identifies for states the policy topics that should be addressed to facilitate widespread adoption of telehealth

https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit-supplement1.pdf

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Source: CMS Waivers, Flexibilities, and the Transition Forward from the COVID-19 Public Health Emergency | CMS

Private Health Insurance and Telehealth

- As is currently the case during the PHE, coverage for telehealth and other remote care services will vary by private insurance plan after the end of the PHE. When covered, private insurance may impose cost-sharing, prior authorization, or other forms of medical management on telehealth and other remote care services.
- For additional information on your insurer's approach to telehealth, contact your insurer's customer service number located on the back of your insurance card.

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Source: CMS Waivers, Flexibilities, and the Transition Forward from the COVID-19 Public Health Emergency | CMS

	Pre-Pandemic	Public Health Emergency	PHE EXPIRES	151 Day Transition	Omnibus Bill
Telehealth and the PHE	Telehealth just emerging, covered by commercial payors broadly but limited by Medicare/Medicaid	PHE was declared for Covid-19 and within it were waivers for Medicare telehealth that were matched by Maryland Medicaid and HSCRC		Telehealth waivers extended by 151 days post PHE Expiration, matched by Maryland Medicaid and HSCRC	Telehealth Flexibilities extended until Dec. 31, 2024. Note: Preserve Telehealth Act, Maryland Medicaid, expected to extend into CY2025
Patient Location	Medicare/Medicaid only covered video if rural or in another medical facility	Medicare/Medicaid covered video visits no matter where the patient was located			
	Home not allowed	Home Allowed			
	Commercial payors cover video visits at parity with no patient location restrictions				
Audio Only	Audio only reimbursed lower	Medicare/Medicaid Audio only covered at parity			Medicare/Medicaid Audio only Allowed. Payment parity varies by State Medicaid.
Providers Types	Limited to ordering providers	Multiple roles allowed, including most allied health		Multiple roles allowed, including some allied health	
Supervision	No Virtual Supervision, Direct Supervision required for RPM	Virtual Supervision allowed, General Supervision allowed for RPM/RTM Through Dec. 31, 2023			Not Addressed
Inpatient	Limited inpatient codes	Expanded Inpatient Codes Through Dec. 31, 2023			Not Addressed

Permanent Medicare Telehealth Changes

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PERMANENT MEDICARE CHANGES

- **Federally Qualified Health Centers (FQHCs) & Rural Health Centers (RHCs) can serve as a distant site provider for *behavioral/mental telehealth* services**
- **Medicare patients can receive telehealth services for *behavioral/mental healthcare* in their homes**
- **There are no geographic restrictions for originating site for behavioral/mental telehealth services**
- **Behavioral/mental telehealth services can be delivered using audio-only communication platforms**
- **Rural hospital emergency departments are accepted as an originating site**

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Sources: Consolidated Appropriations Act, 2021 (PDF), Consolidated Appropriations Act, 2022 (PDF), CMS CY 2022 Physician Fee Schedule (PDF), CMS CY 2023 Physician Fee Schedule (PDF) Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

TELEHEALTH

Permanent Changes

Federally Qualified Health Centers (FQHCs) & Rural Health Centers (RHCs) can serve as a distant site provider for behavioral/mental telehealth services

Waiver is permanent for tele-behavioral health services subject to certain restrictions effective 1/1/25

There are no geographic restrictions for originating site for behavioral/mental telehealth services

Geographic & location restrictions will be waived through December 31, 2024

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Sources: Consolidated Appropriations Act, 2021 (PDF), Consolidated Appropriations Act, 2022 (PDF), CMS CY 2022 Physician Fee Schedule (PDF), CMS CY 2023 Physician Fee Schedule (PDF) Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

TELEHEALTH (1)

Permanent Changes

Medicare patients can receive telehealth services for *behavioral/mental healthcare* in their homes

- Medicare patients can receive telehealth services for behavioral healthcare in their homes in any part of the country. This includes most behavioral health services, such as counseling, psychotherapy, & psychiatric evaluations
- The in-person visit requirements before a patient may be eligible for tele-behavioral healthcare services are delayed through December 31, 2024

Sources: Consolidated Appropriations Act, 2021 (PDF), Consolidated Appropriations Act, 2022 (PDF), CMS CY 2022 Physician Fee Schedule (PDF), CMS CY 2023 Physician Fee Schedule (PDF) Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

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TELEHEALTH (2)

Permanent Changes

Behavioral/mental telehealth services can be delivered using audio-only communication platforms

- Medicare patients can receive telehealth services for behavioral healthcare in their homes in any part of the country. This includes most behavioral health services, such as counseling, psychotherapy, & psychiatric evaluations
- The in-person visit requirements before a patient may be eligible for tele-behavioral healthcare services are delayed through December 31, 2024
  - FQHC: In-person visit requirements delayed until January 1, 2025

Sources: Consolidated Appropriations Act, 2023 (PDF), Consolidated Appropriations Act, 2022 (PDF), Consolidated Appropriations Act, 2021 (PDF)

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TELEHEALTH (3)

Permanent Changes

Rural hospital emergency departments are accepted as an originating site

- Ensure that all practitioners furnishing telehealth services to hospital patients pursuant to agreements with distant site hospitals or distant-site telemedicine entities have been credentialed & granted privileges in compliance with regulatory requirements (42 CFR §482.12(a) (8)–(9))
- Rural Emergency Hospitals (REHs) were added as eligible Medicare originating sites for telehealth. This allows patients to be located at an REH when receiving telehealth services. The REH needs to meet the Health Resources & Services Administration's (HRSA) "rural" classification to bill Medicare as an originating site

Sources: Consolidated Appropriations Act, 2023 (PDF), Consolidated Appropriations Act, 2021 (PDF)

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Temporary Flexibilities Expired on May 11, 2023

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Temporary flexibilities set to expire on May 11, 2023 (with the end of the Covid-19 public health emergency PHE)

- Telehealth can be provided as an excepted benefit
- Medicare-covered providers may use any non-public facing application to communicate with patients without risking any federal penalties — even if the application isn't in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- During the COVID-19 public health emergency (PHE), authorized providers can prescribe controlled substances via telehealth, without the need for an in-person medical evaluation. The Administration's plan is to end the COVID-19 public health emergency on May 11, 2023
- During the public health emergency, CMS waived the "established patient" requirement and allowed providers to bill for remote patient monitoring (RPM) for new patients. Once the PHE ends, CMS will require that RPM services be furnished only to established patients.
  - CMS' statements suggests after the PHE the physician must first conduct a new patient evaluation and management service before rendering RPM to such patient.

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Source: Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth; Families First Coronovirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

Telehealth, 1

Temporary Changes-Expiring
May 11, 2023

Telehealth can be provided as an excepted benefit

Medicare-covered providers may use any non-public facing application to communicate with patients without risking any federal penalties — even if the application isn't in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Source: *Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth*; *Families First Coronovirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation*; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

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Telehealth, 2

Temporary Changes-Expiring
May 11, 2023

During the COVID-19 public health emergency (PHE), authorized providers can prescribe controlled substances via telehealth, without the need for an in-person medical evaluation. The Administration's plan is to end the COVID-19 public health emergency on May 11, 2023

- Ryan Haight Act's in-person exam requirement. Passed into law in 2008, the Ryan Haight Online Pharmacy Consumer Protection Act severely restricts the prescription of controlled substances and requires an in-person exam by a qualified provider before those drugs can be prescribed via telemedicine. Enforcement is handled by the US Drug Enforcement Agency (DEA).

Source: Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth; Families First Coronovirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

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Telehealth, 3

Temporary Changes-Expiring
May 11, 2023

During the public health emergency, CMS waived the "established patient" requirement and allowed providers to bill for remote patient monitoring (RPM) for new patients. Once the PHE ends, CMS will require that RPM services be furnished only to established patients.

- CMS' statements suggests after the PHE the physician must first conduct a new patient evaluation and management service before rendering RPM to such patient

Source: *Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth*; *Families First Coronovirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation*; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov

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Temporary Flexibilities Expiring on December 31, 2024

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Temporary Flexibilities Expiring on December 31, 2024 (continued)

Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) can serve as a distant site provider for non-behavioral/mental telehealth services

Medicare patients can receive telehealth services authorized in the *Calendar Year 2023 Medicare Physician Fee Schedule* in their home

There are no geographic restrictions for originating site for non-behavioral/mental telehealth services

Some non-behavioral/mental telehealth services can be delivered using audio-only communication platforms

An in-person visit within six months of an initial behavioral/mental telehealth service, & annually thereafter, is not required

Telehealth services can be provided by a physical therapist, occupational therapist, speech language pathologist, or audiologist

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Source: Consolidated Appropriations Act, 2023 (PDF)

ADDITIONAL ITEMS TO KNOW

Medicare Provider Enrollment

- Effective January 1, 2024, practitioners who render telehealth services from their home will be required to report their home address on their Medicare enrollment

Home Health Agencies

- Required face-to-face encounters for home health may be performed via telehealth through 12/31/24

Hospice

- Re-certification of eligibility for hospice may be performed via telehealth through 12/31/24

Inpatient Rehabilitation Facilities

- Discontinue use of telehealth for required three-times-per-week face-to-face visits by physician or nonphysician practitioner for inpatient rehabilitation facility patients

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ADDITIONAL ITEMS TO KNOW (continued)

Virtual Supervision

- CMS temporarily changed the definition of “direct supervision” to allow the supervising healthcare professional to be immediately available through virtual presence using real-time audio/video technology instead of requiring their physical presence
- CMS also clarified that the temporary exception
  - Allow immediate availability for direct supervision through virtual presence also facilitates the provision of telehealth services by clinical staff “incident to” the professional services of physicians & other practitioners. This flexibility will expire on December 31, 2023

Source: CMS Waivers, Flexibilities, and the Transition Forward from the COVID-19 Public Health Emergency | CMS

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Audit Considerations for Telehealth Services

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PREPARE FOR AUDITS (1)

Office of Inspector General (OIG) Scrutiny

Identified 1,714 providers who billed telehealth services for about half a million beneficiaries

May have billed for telehealth services that were not medically necessary or were never provided

Received a total of $127.7 million in Medicare FFS payments

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Source: OIG General Data Brief, Sept 2022, EI-02-20-00720

PREPARE FOR AUDITS (2)

Program Integrity Measures – 7 measures

1. Billed both a **telehealth service** & a **facility fee (in person)** for most visits
2. Billed telehealth services at the **highest, most expensive level** every time
3. Billed telehealth services for a **high number of days** in a year
4. Billed both **Medicare FFS & a Medicare Advantage plan for the same service** for a high proportion of services
5. Billed a **high average number of hours** of telehealth services per visit
6. Billed telehealth services for a **high number of beneficiaries**
7. Billed for a telehealth service & **ordering medical equipment** for a high proportion of beneficiaries

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Source: OIG General Data Brief, Sept 2022, EI-02-20-00720

PREPARE FOR AUDITS (3)

Office of Inspector General (OIG) Scrutiny

Phase 1

Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency

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“Phase one audits will focus on making an early assessment of whether services such as evaluation & management, opioid use disorder, end-stage renal disease, & psychotherapy (Work Plan number W-00-21-35801) meet Medicare requirements”

Source: OIG General Data Brief, Sept 2022, EI-02-20-00720, Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency (hhs.gov)

PREPARE FOR AUDITS (4)

Office of Inspector General (OIG) Scrutiny

Phase 2

Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency

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"Phase two audits will include additional audits of Medicare Part B telehealth services related to distant & originating site locations, virtual check-in services, electronic visits, remote patient monitoring, use of telehealth technology, & annual wellness visits to determine whether Medicare requirements are met"

Source: OIG General Data Brief, Sept 2022, EI-02-20-00720, Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency (hhs.gov)

Prepare for Audits

Office of Inspector General (OIG) Scrutiny

Telehealth Update – April 4, 2022

- “While the expansion of telehealth has been critical to maintaining beneficiaries' access to care, it is important that new policies and technologies with potential to improve care and enhance access achieve these goals and are not compromised by fraud, abuse, or misuse”
- OIG is conducting significant oversight work assessing telehealth services, including the impact of the public health emergency flexibilities. Once complete, these reviews will provide objective findings and recommendations that can further inform policymakers and other stakeholders considering changes to telehealth policies. This work can help ensure the potential benefits of telehealth are realized for patients, providers, and HHS programs”

Source: OIG General Data Brief, Sept 2022, EI-02-20-00720, Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency (hhs.gov)

PREPARE FOR AUDITS, continued

Telephone Services – CPT codes 99441-99443

Follow CPT guidance – telephone calls **initiated by an established patient** & have certain restrictions. If the call includes the decision to see the patient in the next 24 hours or next available appointment, it cannot be billed. If the call refers to an E/M service reported by the QHP within the past 7 days, the telephone codes cannot be used

- Follow time-based rules
- These calls are initiated by the patient or guardian

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Source: https://www.aapc.com/blog/50156-telehealth-faq-you-asked-we-answered/

PREPARE FOR AUDITS

Document as if an Actual Face-to-Face Encounter

- Time spent in medical discussion to support the procedure code billed (E/M)
- Don’t use canned statements, documentation should always be patient-specific
- Timely physician authentication
- Medical necessity – only provide telehealth when clinically appropriate
- Do not bill for telehealth if it is an administrative or non-clinical discussion, *i.e.*, follow-up lab results
- Document start/stop times for behavioral health therapy
- Document patient location, provider location, & patient consent to telehealth

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PREPARE FOR AUDITS

- Assemble your communications/interdisciplinary team(s)
- Draft communication alerts based on key dates
- Incorporate telehealth training & education
- Accurate documentation
- New policies & procedures for telehealth
- Regular auditing & monitoring
- Preserve historical claims & medical documentation
- Comply with HIPAA guidance – secure platforms
- Be proactive – OIG Work Plan
- Conduct periodic post-payment reviews
- Address quickly what you already know
- Outside legal counsel
- Have a corporate compliance plan assessment

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Source: https://www.cms.gov/files/document/telehealth-toolkit-providers.pdf

Post-Polling Questions

1. I am ___ in my understanding of how updates to Public Health Emergency (PHE) related waivers can impact my organization's daily workflow.

2. I am ___ in my understanding of how to ensure successful implementation and utilization of telehealth services in the long term.

3. I am ___ that I will apply the knowledge gained from this educational training to identify leading practices to mitigate risks and improve processes that enhance my organization's financial position.

Thank You!

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Assurance / Tax / Advisory