

Telehealth in the Age of COVID-19



What is telehealth? The provision of health services and information via telecommunication technologies

Before COVID-19

Social Security Act §1834(m) significantly restricted the access to telehealth care for Medicare patients by limiting:

- Who can provide telehealth care
- Where can patients receive telehealth care
- What type of care can be provided via telehealth

Importance of Federal Medicare policies?

- Considerations for other policies, such as Medicaid and commercial insurance, tend to flow from Medicare policy changes

Additional telehealth restrictions:

- DEA highly restricts the remote prescribing of controlled substances
- Platforms used for telehealth must be HIPAA compliant
- FDA regulates software used as a “medical device”
- State and Federal licensing requirements for telehealth providers
- Limited funding for rural telehealth providers and broadband infrastructure

During COVID-19

- Telehealth is seen as a necessity during pandemic; Congress passes legislation increasing flexibility of telehealth policies
- Loosening or complete waiver of many §1834(m) Medicare restrictions
- CARES Act allocates over \$28 billion in funding to providers, including to support increased telehealth access and infrastructure
- Creation of toolkit to encourage use of telehealth in Medicaid programs
- Relaxing of DEA restrictions for remote controlled substance prescriptions
- Waiver of HIPAA violation penalties for telehealth providers using noncompliant platforms
- Removal of Medicare requirement that telehealth providers be licensed in the state where patient is located
- Expansion of telehealth services for veterans

After COVID-19

The policy changes made during COVID-19 are temporary, but they have been very successful

- Patients and providers have invested in, and shown a desire to, continue using telehealth after pandemic
- Current policies expire with the Public Health Emergency

Statutory changes will require Congressional action to be permanent

- Changes to §1834(m) Medicare restrictions

Regulatory changes will depend on the actions of the agencies in charge

- Remote prescription of controlled substances (DEA)

As of the end of July 2020, Congress is currently negotiating the next COVID legislative package

- Senate Republicans have suggested extending the telehealth waivers through the end of 2022
- The House HEROES Act did not include telehealth, but the House has introduced many telehealth bills since it passed, including H.R. 7663, which would make permanent changes