

# COVID Emergency Provisions: Telehealth

In response to the COVID-19 nationwide public health emergency, Medicare has issued several temporary measures to support the use of telehealth and the ability of health care providers to protect both their clinicians and patients.

**In sum, emergency measures state that for the duration of the COVID-19 public health emergency:**

- **Health care providers may offer services that would typically occur in person at an office or hospital via telecommunication technology with the patient in their place of residence;**
- **Providers offering telehealth services do not need to be licensed in the same state as the receiving patient or have a pre-existing relationship with the patient;**
- **Health care providers may waive patient co-pay/deductible (but are not required to do so) for telehealth services; and**
- **HHS-OIG will not take enforcement actions against providers that stand up telehealth programs using HIPAA-noncompliant technologies or do not have a BAA in place with their telecommunication vendor.**

Telehealth-Eligible Services & Sites. Beginning on dates of services March 6, 2020 and later, Medicare will pay for providers to offer telehealth to their patients, regardless of whether or not they are located in a rural area. Telehealth services may be used for office and hospital visits that would typically be provided in person. Further, Medicare is allowing patients to receive telehealth services in their place of residence rather than requiring use of specific originating sites. The flexibilities to telehealth-eligible services and sites apply regardless of the service or diagnosis at issue. Medicare will consider such visits the same as in-person visits and pay an identical rate to a regular, in-person visit under the Physician Fee Schedule.

Practitioners Offering Telehealth. In response to the emergency, Medicare is relaxing requirements regarding which providers may offer telehealth services. Specifically, licensed practitioners of a state will be allowed to provide telehealth services in other states, including those in which they may not be licensed. Medicare is also waiving the requirement for the practitioner to have a previously established relationship with the patient prior to a telehealth service during the COVID-19 crisis.

Cost-Sharing for Telehealth Services. Patient cost-sharing continues to apply to telehealth services. However, the HHS Office of Inspector General (OIG) has stated it will not take enforcement actions against providers that opt to reduce or waive patient cost-sharing for telehealth visits occurring during the COVID-19 public health emergency. This enforcement discretion applies only to telehealth services. Waiving telehealth co-payments is not required.

Telehealth Technology Options. Telehealth services require the use of an interactive, real-time audio and video telecommunication system. The exchange of health information means that these telecommunication systems should be evaluated for HIPAA compliance. However, to help providers quickly set up telehealth programs and prevent the spread of illness, the OIG is temporarily withholding enforcement actions related to HIPAA and telehealth technologies.

Where readily available, the OIG encourages providers beginning a telehealth program to use vendors that hold themselves out to be HIPAA-compliant; including Skype for Business, Updox, VSee, Zoom for Healthcare, Doxy.me, and Google G Suite Hangouts Meet. Organizations working with such vendors will not be penalized even if they sign a BAA at a later date. Health care providers without quick access to HIPAA-compliant telecommunication products may utilize other popular applications that allow for audio-video communications, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype. Organizations using those applications should enable all available encryption and privacy modes and notify their patients of the potential for privacy risks; but will also not be penalized while the public health emergency remains in place.