

Health Information Compliance Alert

Compliance: Feds Continue to Target PHE-Related Telehealth Services in 2022

Tip: Prepare for possible OIG scrutiny now.

As providers struggled to contend with the pandemic, Medicare swiftly complied by expanding telehealth services after the COVID-19 Public Health Emergency (PHE) was declared. Unfortunately, telehealth fraud also increased with the expansion, and the feds are looking into providers' practices of the digital tools.

Now: The HHS Office of Inspector General (OIG) has put telehealth services claims submitted to Medicare and Medicaid on their enforcement to-do list, and many providers may be directly affected. Once the PHE ends, some federal agencies may not continue the telehealth policies due to the amount of "telefraud" being committed.

"One of the things that the OIG has discovered is the amount of telehealth schemes that have leveraged the reach of telemarketing schemes in combination with certain unscrupulous physicians conducting sham remote visits to increase the size and scale of their operations because it's just so easy," says **Terry Fletcher, BS, CPC, CCC, CEMC, SCP-CA, ACS-CA, CCS-P, CCS, CMSCS, CMCS, CMC, QMGC, QMCRC**, owner of Terry Fletcher Consulting Inc. and consultant, auditor, educator, author, and podcaster at Code Cast, in Laguna Niguel, California.

Review six focus areas for upcoming OIG Work Plans to get a better idea of how telehealth services you may provide may come under the feds' enforcement microscope.



1. Home Health and Home Care Services

Agencies that provided skilled services via telehealth during the PHE will come under scrutiny. Audits will focus on making an early assessment on whether skilled services provided during the PHE were furnished via telehealth and whether the services were administered and billed according to Medicare requirements, Fletcher explains.

This means that OIG is looking for overpayments that were improperly billed, and they're going to make their findings known. Providers should expect to see publication sometime in 2022.

2. Medicare Part B Telehealth Services

The OIG will be conducting audits in two phases. In Phase 1 audits, the OIG will focus on whether evaluation and management (E/M) services, opioid use disorder, end-stage renal disease, and psychotherapy met the Medicare requirements. In the Phase 2 audits, the national watchdog will look at telehealth services related to distant and originating site locations, virtual check-in services, electronic visits, remote patient monitoring, and the use of telehealth technology.

"They're going to really look to see how many of you billed audio-only services as an office visit incorrectly," Fletcher warns. Wellness visits performed via telehealth will also come under scrutiny, since so many providers conducted these remotely during previous pandemic surges.

3. Home Health Agencies' Strategies and Challenges Responding to COVID-19 Pandemic

The OIG will look at the strategies home health agencies (HHAs) navigated while responding to the challenges presented

by COVID-19. This report will look at how agencies dealt with staffing issues, telehealth implantation, and how and whether agencies' emergency preparedness plans translated to actual preparedness.

Fletcher guesses that whatever insights the OIG gleans about the real-world implications of policies requiring emergency preparedness - the agency may keep on its radar and apply to other facets of Medicare.



4. Medicare Telehealth Service During COVID-19 Pandemic Program Integrity Risks

The OIG is going to analyze billing patterns for telehealth services and will describe any key characteristics of providers that pose a program integrity risk to Medicare, Fletcher says.

The OIG will probably focus on physicians coding level 5 services and not using time and not changing a code if the patient loses their video connection, among other things, Fletcher suggests.

5. Use of Medicare Telehealth Services During the COVID-19 Pandemic

As the pandemic ramped up, the Centers for Medicare & Medicaid Services (CMS) cut a lot of red tape surrounding telehealth, making it easier for beneficiaries to access services without having to risk an in-person encounter. CMS is considering making some of these adjustments permanent.

The OIG says it's going to review telehealth service data from Medicare Parts B and C during the pandemic. The work plan "will look at the extent to which telehealth services are being used by Medicare beneficiaries, how the use of these services compares to the use of the same services delivered in person, and the different types of providers and beneficiaries using telehealth services," the agency affirms.

The OIG is evaluating whether beneficiaries can access the same quality of care via telehealth, and, if not, why there might be a payment parity, Fletcher notes.

6. Medicaid Telehealth Expansion During COVID-19 Emergency

The OIG is looking to see how states managed rapid and perhaps unanticipated expansion of telehealth services for state Medicaid programs, and how state agencies and their oversight of these programs fared.

"Our objective is to determine whether State agencies and providers complied with Federal and State requirements for telehealth services under the national emergency declaration, and whether the States gave providers adequate guidance on telehealth requirements," the OIG says.