

# Health Information Compliance Alert

## COVID-19: Get the Facts on New Telehealth Updates

### Feds permit more practitioners to bill telehealth now.

Last month, the feds released a second round of COVID-19 related updates. And with the pandemic continuing to reshape the healthcare industry, you may want to add these telehealth revisions to your office policies.

**Context:** On April 30, the **Centers for Medicare & Medicaid Services (CMS)** announced another round of "sweeping changes" to address the COVID-19 public health emergency (PHE) and its impact on the healthcare industry. This second interim final rule, published in the Federal Register on May 8, aims to offer more regulatory flexibilities and advice as the nation moves into a new phase of the pandemic.

**Reminder:** As part of the PHE and through its duration, CMS is authorized to issue these types of telehealth waivers and flexibilities to combat COVID-19 in accordance with section 1135 of the Social Security Act (see Health Information Compliance Alert, Vol. 20, No. 4).

"The war is far from over, but in various areas of the country, the tide is turning in our favor," said CMS Administrator **Seema Verma** in a release. "Building on what was already extraordinary, unprecedented relief for the American healthcare system, CMS is seeking to capitalize on our gains by helping to safely reopen the American healthcare system."

### Pocket This Checklist of the Top Changes

CMS' new waivers, expansions, and policy changes offer relief across a spectrum of healthcare mediums. Here's a quick look at the most important telehealth revisions and expansions to add to your checklist:

**Update your allowed provider list:** As part of the 1135 waivers and flexibilities, CMS will now allow more practitioners to bill for telehealth services, including physical therapists, occupational therapists, and speech language pathologists.

**Understand the audio-only policy:** Certain telehealth evaluation and management (E/M) services can be audio-only now - with restrictions. "Despite CMS touting that it now reimburses for audio-only services, this announcement does not mean that all telehealth services can be provided via audio only," indicate attorneys **Ellen L. Janos** and **Sarah Beth S. Kuyers** with **Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.** in a Mintz Insight Center blog post. "To the contrary, CMS' guidance document states that all 'other services included on the Medicare telehealth services list must be furnished using, at a minimum, audio and video equipment,'" Janos and Kuyers stress.

**Know these payment specifics:** Medicare is expanding coverage to include behavioral health and patient education services in addition to certain audio-only telephone visits, according to a CMS fact sheet. Plus, the agency is bumping up some telehealth service payments to align with in-person visits. "CMS is also increasing payments for these telephone visits to match payments for similar office and outpatient visits," the fact sheet notes. "This would increase payments for these services from a range of about \$14-\$41 to about \$46-\$110. The payments are retroactive to March 1, 2020."

**Expect quicker policy turnarounds in the future:** The agency will use a subregulatory process during the PHE to add more telehealth services to its coverage list. "This will speed up the process of adding services," maintains CMS.

**See new rural options:** As part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), CMS allowed rural health clinics (RHCs) and federally qualified health centers (FQHCs) "to provide distant site telehealth from any location that is approved as a distant site under the Physician Fee Schedule (PFS) by any practitioner working for the



RHC or the FQHC within their scope of practice," advises New York-based attorney **Rachel Hold-Weiss** with **Arent Fox LLP** in the Health Care Counsel Blog.

**Bottom line:** As CMS continues to expand telehealth services during the PHE, the states and private payers are also revising their telehealth coverage and payment policies, too. Experts suggest that this may become the new normal in years to come. "The use of telehealth has been rapidly expanding in recent weeks, and we expect the trend to continue for the foreseeable future, even after the pandemic has ended," say Janos and Kuyers.

**Resource:** Find the interim final rule, including instructions on how to comment by the July 7 deadline, at [www.govinfo.gov/content/pkg/FR-2020-05-08/pdf/2020-09608.pdf](http://www.govinfo.gov/content/pkg/FR-2020-05-08/pdf/2020-09608.pdf).

**Disclaimer:** Information related to COVID-19 is changing rapidly. This information was accurate at the time of writing. Be sure to stay tuned to future issues of Health Information Compliance Alert for more information.