HEALTH CAPITAL Topics
Volume 13
Issue 3
March 2020
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COVID-19 Could Solidify Telehealth's Long-Term Future

One of the potential beneficiaries of the ongoing coronavirus (COVID-19) pandemic may very well be telehealth technology. The significant number of actions taken over the past month to relax regulatory and reimbursement restrictions has resulted in a windfall of demand for these telehealth providers, and may be unfeasible to reverse at the conclusion of the pandemic, once patients and providers become reliant on the new technology.

On March 6, 2020, President Donald Trump signed the $8.3 billion *Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020*.[1] One provision of the law, entitled the *Telehealth Services During Certain Emergency Periods Act of 2020* (TSDCEPA), gives authority to the Secretary of the *Department of Health and Human Services* (HHS) to lift some telehealth delivery restrictions.[2] The goal of this policy shift is to allow providers to render telehealth services to Medicare beneficiaries in their homes and prevent those patients from entering crowded or contaminated healthcare facilities. The telehealth changes relate to all conditions, not just those related to the coronavirus, or COVID-19.[3] Telehealth, also called telemedicine,[4] refers to "*the remote delivery of health care services and clinical information*,"[5] and most often manifests as real-time "*virtual visits*" (i.e., video chats) between patients and providers.

The Act lifts the "*originating site*" requirements for telehealth services.[6] Previously, the patient receiving the telemedicine services had to be located at a healthcare facility in:

(1) A county outside of a *Metropolitan Statistical Area* (MSA); or,
(2) A rural *Health Professional Shortage Area* (HPSA) located in a rural census tract.[7]

The relaxation of the "*originating site*" restriction allows telehealth services to be provided to patients in all areas of the country across all settings, e.g., within the patient's home.[8] The added flexibility will allow many more patients to access telehealth services during the emergency period, without the risk of infecting themselves or others.[9]

Further, a range of providers will now be able to offer telehealth to their patients, including nurse practitioners, social workers, and physicians.[10] Previously, which practitioners were allowed to receive reimbursement for telehealth services were dictated by state law.[11]

Three weeks later, on March 27, 2020, President Trump signed another economic stabilization package that provides $2 trillion to individuals, businesses, and states.[12] Among a myriad of other measures, the *Coronavirus Aid, Relief and Economic Security (CARES) Act* includes a number of additional provisions related to telehealth services, including:

(1) $200 million to the *Federal Communications Commission* (FCC) for telehealth development support;
(2) A removal of the requirement that a physician must have treated a patient within the last three years to receive payment for telehealth;
(3) Allowing hospice care to be recertified via telehealth;
(4) Expanded eligibility for home dialysis patients to receive telehealth; and,
(5) Increased flexibility for federally qualified health centers (FQHCs) and rural health clinics (RHCs).[13]

Billing of telehealth services during this period are to be coded the same as if the service was furnished in-person, but should use the Place of Service (POS) code "02-Telehealth;" No specific modifiers need to be associated with telehealth services furnished during the crisis period.[14] Of note, because telehealth services are professional services, no facility fee can be charged by the provider.[15]

Medicare beneficiaries will be able to receive common office visits, mental health counseling, and preventive health screenings via telehealth technology.[16] There are three main types of virtual visits that can be provided:

(1) *Medicare telehealth visits*: New or established patients[17] may receive services from providers through an interactive audio and video communication system that permits real-time communication. The visits are considered the same as in-person visits and, significantly, are paid at the same rate as regular in-person visits[18] – previously, most insurers reimbursed telehealth visits at 50% of its in-person counterpart.[19]

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(2) *Virtual check-ins*: Established patients may have a brief (five to ten minute) communication via telephone, or exchange of information through video or image, with practitioners. These check-ins (likely initiated by the patient) are intended to avoid trips to the healthcare facility for quick questions of relatively small concern. The communication cannot be related to a medical visit within the previous seven days and cannot lead to a medical visit within the next 24 hours.[20]

(3) *E-visits*: Established patients may initiate communications with providers by using their online patient portal. The patient must generate the initial inquiry, and communication can occur over seven days.[21]

In addition to the above-listed visits, the *Drug Enforcement Agency* (DEA) published guidance on March 16, 2020 stating that during the pandemic, physicians will be able to prescribe controlled substances via telemedicine, without an in-person examination.[22]

Significantly, the HHS *Office of Inspector General* (OIG) will allow providers to reduce or waive pat ient cost-sharing for telehealth visits paid by federal healthcare programs for the duration of the pandemic.[23] The HHS *Office for Civil Rights* (OCR) will also waive penalties for violations of the *Health Insurance Portability and Accountability Act* (HIPAA) against healthcare providers that serve patients in good faith through everyday communication, such as Skype or FaceTime, for the duration of the crisis.[24]

In response to this roll-back of regulations, demand for telemedicine services has surged upwards of 10- to 20-fold, overwhelming providers.[25] A number of companies and providers have large backlogs of patients, resulting in significant delays.

Over the past two years, the Trump Administration has incrementally expanded telehealth coverage under Medicare.[26] However, the current coverage expansion is the most significant change in the coverage of telehealth benefits since Medicare began reimbursing certain telehealth services in 2001.[27] The expansion comes at a critical time for healthcare organizations overwhelmed by the COVID-19 pandemic, and allows Medicare beneficiaries to receive medical services without risking their health or the health of others. Moreover, many industry stakeholders predict that these changes could serve as a harbinger for the future of telemedicine, and remain in place after the crisis subsides,[28] if it is proven to be a successful (and cost-effective) method of delivering healthcare services to beneficiaries.

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1 H.R.6074 - Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020.
2 *Ibid.*
3 *Ibid.*
4 While the terms "telehealth" and "telemedicine" are distinguished by some in the healthcare industry, the American Telemedicine Association (ATA) considers the terms to be synonyms; therefore, these terms may be used interchangeably throughout this article.
5 "Telemedicine Frequently Asked Questions (FAQs)" American Telemedicine Association, 2017, http://www.americantelemed.org/main/about/about-telemedicine/telemedicine-faqs (Accessed 3/16/20).
6 H.R.6074 - Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020.
7 "Telehealth Services" Medicare Learning Network, ICN 901705, January 2019, https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/TelehealthSrvcsfctsht.pdf (Accessed 3/16/20), p. 3-6.
8 H.R.6074 - Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020.
9 *Ibid.*
10 "MEDICARE TELEMEDICINE HEALTH CARE PROVIDER FACT SHEET" Centers for Medicare & Medicaid Services, March 17, 2020, https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet (Accessed 3/17/20).
11 Medicare Learning Network, ICN 901705, January 2019, p. 5.
12 "H.R. 748, Coronavirus Aid, Relief, and Economic Security Act" March 2020.
13 *Ibid.*
14 Centers for Medicare & Medicaid Services, March 17, 2020.
15 Under rare circumstances such as CAHs can bill for the fee, however, if the service is provided inside of a facility there would only be an originating site fee. Centers for Medicare & Medicaid Services, March 17, 2020.
16 "MEDICARE TELEMEDICINE HEALTH CARE PROVIDER FACT SHEET" Centers for Medicare & Medicaid Services, March 17, 2020.
17 While all telehealth service reimbursements are technically predicated on the fact that the practitioner had a previously-established relationship with the patient, CMS has stated that no audits will be conducted to ensure that a prior relationship existed for claims submitted during the national emergency. Centers for Medicare & Medicaid Services, March 17, 2020.
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19 "Telemedicine Surges, Fueled By Coronavirus Fears And Shift In Payment Rules" By Phil Galewitz, Modern Healthcare, March 27, 2020, https://khn.org/news/telemedicine-surges-fueled-by-coronavirus-fears-and-shift-in-payment-rules/?utm_campaign=KHN%3A%20Daily%20Health%20Policy%20Report&utm_source=hs_email&utm_medium=email&utm_content=85363198&_hsenc=p2ANqtz-_10eHNPsN_UTcrlffxArO84O-rphDQ3SX-IcfPn95C3-r_SiR7k9q0d2j4wBAhEXngjvWnJplVbCMJ-rtG4xp5SGhM8Q&_hsmi=85363198 (Accessed 3/27/20).
20 "MEDICARE TELEMEDICINE HEALTH CARE PROVIDER FACT SHEET" Centers for Medicare & Medicaid Services, March 17, 2020, https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet (Accessed 3/17/20).
21 *Ibid.*
22 "COVID-19 Information Page" U.S> Department of Justice, Drug Enforcement Administration, Diversion Control Division, https://www.deadiversion.usdoj.gov/coronavirus.html (Accessed 3/20/20).
23 "OIG Policy Statement Regarding Physicians and Other Practitioners That Reduce or Waive Amounts Owed by Federal Health Care Program Beneficiaries for Telehealth Services During the 2019 Novel Coronavirus (COVID-19) Outbreak" Office of Inspector General, Department of Health & Human Services, March 17, 2020, https://oig.hhs.gov/fraud/docs/alertsandbulletins/2020/policy-telehealth-2020.pdf (Accessed 3/17/20).
24 HIPAA requires that providers utilize secure communication to guard the integrity of patient health information (PHI) – services

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such as Skype, FaceTime, SMS text messages, or unsecured email do not considered secure communications. Centers for Medicare & Medicaid Services, March 17, 2020, .

25 "Surge in patients overwhelms telehealth services amid coronavirus pandemic" By Erin Brodwin and Casey Ross, Stat, March 17, 2020, https://www.statnews.com/2020/03/17/telehealth-services-overwhelmed-amid-coronavirus-pandemic/ (Accessed 3/20/20).

26 "President Trump Expands Telehealth Benefits for Medicare Beneficiaries During COVID-19 Outbreak" Centers for Medicare & Medicaid Services, March 17, 2020, https://www.cms.gov/newsroom/press-releases/president-trump-expands-telehealth-benefits-medicare-beneficiaries-during-covid-19-outbreak (Accessed 3/17/20).

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