

## INSIGHTS + NEWS

## Client Alert: Expanded Medicare Telehealth Benefits During the Public Health Emergency

BY PETER J. MARTIN • MARCH 25, 2020

An oft-expressed concern during the coronavirus pandemic has been that health care facilities, especially hospitals, will become overwhelmed by many new patients suffering from the coronavirus added to the existing inpatient population. The Medicare system earlier in March announced rules that permit the expanded use of telehealth technologies to evaluate and treat patients remotely. These new rules will remain in effect throughout the duration of the Public Health Emergency declared by the Secretary of Health and Human Services on January 31, 2020.

Previously, Medicare beneficiaries seeking telehealth services had to be in a physician's office or other healthcare facility in a rural area. Now, effective March 6, 2020, they can receive such services anywhere in the country, and from their homes. Also, before the new rules, such telehealth services could only be provided by a clinician with an established relationship with the patient. Now, HHS has the discretion to not conduct audits to ensure that such a prior relationship existed for claims submitted during the PHE. Under original Medicare, beneficiaries were liable for standard out of pocket costs for telehealth services. Now, providers have the flexibility to waive or reduce cost-sharing for such services rendered to Medicare beneficiaries.

The Medicare-covered telehealth services are not limited to services related to the coronavirus pandemic, thus encouraging patients with all sorts of conditions to avoid unnecessary visits to health care facilities. Providers must use an interactive audio and video telecommunications system that permits real-time communication with the patient, when rendering telehealth services. HHS will exercise enforcement discretion under HIPAA for violations when providers in good faith use ordinary telecommunications technologies, such as FaceTime or Skype, when providing telehealth services during the PHE.

HHS guidance encourages qualified providers to let their patients know about the expanded availability of telehealth services. During the PHE, those qualified providers include physicians and certain non-physician practitioners, such as nurse practitioners, physician assistants, certified nurse midwives, clinical psychologists, clinical social workers, registered dietitians and nutrition professionals. Telehealth services will be reimbursed at the same rates as if the services were provided in person, using existing HCPCS/CPT codes. The new rules do not affect existing provisions for "virtual check-ins" and e-visits through patient portals.

Health care practitioners who are currently trying to make their practices as "virtual" as possible, and are encouraging their patients to remain in their homes and avoid hospital and other facility visits, should be aware of these recently-relaxed Medicare rules.