TELEHEALTH POLICY

2023

HEALTH INNOVATION ALLIANCE

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TABLE OF CONTENTS

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TELEHEALTH LEGISLATION BEGAN IN 1997

The Balanced Budget Act of 1997 was the first major legislation to include telehealth allowing partial reimbursement for telehealth services for Medicare beneficiaries living in rural areas with provider shortages.

WHEN DO TELEHEALTH FLEXIBILITIES END?

Consolidated Appropriations Act, 2023 extended key telehealth flexibilities until December 31, 2024

IMPORTANCE OF TELEHEALTH

As technology continues to advance, telehealth is the future of healthcare. Telehealth provides a more accessible and convenient means of care. It can also effectively address health disparities prevalent in the U.S. However, the current U.S. health system is not structured to support the growing telehealth need.

HOW DID WE GET HERE?

In response to the COVID-19 pandemic, in 2020, CMS waived most telehealth restrictions to allow individuals a safer and more convenient way of receiving healthcare. Since then, telehealth flexibilities are set to expire on December 31, 2024.

WHAT NEEDS TO BE ADDRESSED?

With the rapid expansion of telehealth in recent years, many providers and patients flocked to a new, technology-enabled method of healthcare. However, this access remains temporary, and the need for permanency in telehealth must first be addressed.

FUTURE OF TELEHEALTH

While telehealth flexibilities are extended through 2024, many advocates are concerned about the "telehealth cliff" that will end many of the telehealth flexibilities that came out of the pandemic. As a result, advocates are working to pass legislation to protect access to telehealth for patients.

OVERVIEW OF HIA

The Health Innovation Alliance (HIA) is a diverse coalition of patient advocates, healthcare providers, consumer organizations, employers, technology companies, and payers who support the adoption and use of data and technology to improve health outcomes and lower costs.

Formed in 2007, HIA has been on the front lines of federal policy related to remote care and telehealth since our inception. As leading telehealth advocates for more than a decade, HIA continues to lead the charge on key policy changes to make telehealth more accessible, including regulatory flexibility and legislative extensions of telehealth in Medicare for beneficiaries in their homes and in urban and rural areas.

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THE TIMELINE OF MEDICARE TELEHEALTH POLICIES

2000

Congress passed the **Consolidated Appropriations Act of 2001 (CAA),** which amended the Social Security Act to add Section 1834(m), requiring Medicare to begin reimbursement for telehealth services under a narrow set of circumstances.

Medicare limited reimbursement of telehealth services to beneficiaries living in rural areas and required patients to travel to a designated health facility, such as a local clinic, to conduct a telehealth visit.

July 2008

Congress passed the **Medicare Improvements for Patients and Providers Act** which expanded the list of telehealth originating sites to include hospital-based renal dialysis centers, skilled nursing facilities, and community mental health centers.

Feburary, 2018

Congress passed the **Bipartisan Budget Act (BBA) of 2018** which expanded eligible telehealth originating sites, removed geographic restrictions under some circumstances, and enhanced access to home dialysis and telehealth services for stroke patients, including those in urban locations. The legislation also allowed Medicare Advantage plans to offer telehealth services as a basic benefit for the first time.

January, 2020

On January 31st, 2020, Secretary Azar of HHS authorized a **Public Health Emergency (PHE) for COVID-19.**

March, 2020

Under the PHE, **CMS expanded telehealth flexibilities under the 1134 waiver authority and CARES Act.** Changes under this waiver included: broadening what telehealth services are covered, including patients' homes as an originating site, services expanded to all Medicare beneficiaries, covering some audio-only services, extension for FQHC & RHCs, and expansion of the list of telehealth providers.

Enrollees in HDHP-HSAs could now access telehealth benefits from employer or insurer pre-deductible.

THE TIMELINE OF MEDICARE TELEHEALTH POLICIES

December, 2020

The **Consolidated Appropriations Act (CAA) of 2020** permanently expanded access for Medicare patients to be treated in their homes and other sites for **mental health services.** Unfortunately, the CAA also included an arbitrary requirement forcing patients to be seen **in person once every six months** or risk losing coverage for telemental services.

December, 2021

On December 31, 2021, the **CARES Act** waiver that provided telehealth services to be included as pre-deductible coverage for HDHP-HSA health plans expired. The CARES Act was then reinstated by the CAA of 2022. The **Telehealth Expansion Act (S. 1704/HR 5981)** would permanently extend this waiver.

March, 2022

The CAA of 2022 **extended telehealth flexibilities 5 months** (151 days) after the official end of the PHE. In October 2021, the PHE was extended through January 11, 2023. The Biden Administration has indicated they will give a 60-day notice before the end of the PHE.

July, 2022

House passed the **Advancing Telehealth Beyond COVID-19 Act** that extended telehealth flexibilities until December 31, 2024 and delays implementation of in-person requirements for mental health telehealth services until January 1, 2025.

December, 2022

Congress passed the **CAA, 2023** that extended Medicare telehealth flexibilities through December 31, 2024 and included a delay in the in-person requirement for mental health services, and extended the safe harbor for HDHPs to cover telehealth services through 2024.

While telehealth has been decoupled from the PHE, permanent reform is still needed to ensure access for patients.

FAST FACTS

MORE THAN 1 IN 4 BENEFICIARIES HAD A TELEHEALTH VISIT IN 2020

From the summer to fall of 2020, 27% of Medicare beneficiaries had a telehealth visit.

from Kaiser Family Foundation

2/3 RDS OF BENEFICIARIES HAD A PROVIDER OFFER TELEHEALTH

Before the pandemic, 18% of Medicare beneficiaries said their provider offered telehealth services; this rose to 64% of providers during the pandemic.

from Kaiser Family Foundation

1 IN 5 BENEFICIARIES USED AUDIO-ONLY TELEHEALTH

12.7 million, or 19% of Medicare beneficiaries, used audio-only services during the first year of the pandemic. In addition, 93% of these beneficiaries used audio-only exclusively.

from OIG Data Brief (OEI-02-20-00522)

9 IN 10 ADULTS WERE SATISFIED WITH THE QUALITY OF THEIR TELEHEALTH VISIT

95% of Medicare beneficiaries were satisfied with their most recent telehealth visit. In addition, 8 in 10 adults said they were likely to use telehealth again in the future.

from Bipartisan Policy Telehealth Report

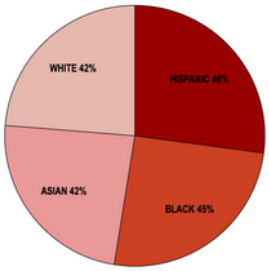
WHO USED TELEHEALTH IN THE FIRST YEAR OF THE PANDEMIC?

URBAN BENEFICIARIES

45% of urban beneficiaries compared to 33% of rural beneficiaries.

DUAL-ELIGIBLES

53% dual-eligibles compared to 40% Medicare-only beneficiaries.



HISPANICS

48% of Hispanics compared to the second most likely racial group, African Americans at 45%.

UNDER 65

49% of those under 65 years compared to the second most likely age group of 75-84 & over 84 years at 47%.

WOMEN

46% of women compared to men at 39%.

from OIG Data Brief (OEI-02-20-00522)

PERMANENCY FOR TELEHEALTH

The Problem

Telehealth flexibilities are slated to end in 2024. After that time, telehealth will revert back to archaic regulations that limit access to care.

The Solution

Congress should pass the bi-partisan Telehealth Modernization Act or the CONNECT for Health Act. These bills would help millions of seniors and disabled citizens by permanently expanding telehealth in Medicare.

TELEHEALTH MODERNIZATION ACT

SUMMARY

- Removes geographic and originating site restrictions for telehealth services permanently.
- Allows for more services to be covered under telehealth by granting HHS the authority to retain and modify the currently expanded list of covered services.
- Permanently allows Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) to furnish telehealth services as distant site providers.

Sponsors:

Rep. Buddy Carter
R-GA-01

Sen. Tim Scott
R-SC

CONNECT FOR HEALTH ACT

SUMMARY

- Provides HHS Secretary with authority to waive telehealth restrictions.
- Removes geographic restriction for telehealth services permanently.
- Expands originating sites to include the home.
- Permanently allows FQHCs and RHCs to furnish telehealth services as distant site providers.

Sponsors:

Rep. Mike Thompson
D-CA-05

Sen. Brian Schatz
D-HI

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TELEHEALTH FOR MENTAL HEALTH

The Problem

The CAA of 2020 permanently expanded Medicare patients' access to use telehealth for mental health services; however, it also included an arbitrary requirement that patients be seen in-person once every six months or risk losing coverage for elemental services.

The Solution

Congress should pass the bi-partisan Telemental Healthcare Access Act to remove this burdensome in-person requirement for mental health services. By removing the in-person requirement for mental health services in Medicare, Congress can improve health and lower costs while increasing access and utilization.

TELEMENTAL HEALTHCARE ACCESS ACT

SUMMARY

- Eliminates in-person requirement to qualify for Medicare coverage for mental health services provided through telehealth.
- Commissions a GAO study on the utilization of mental and behavioral health services in the Medicare program.

Sponsors:

Rep. Dorsi Matsui
D-CA-06

Sen. Bill Cassidy
R-LA

BETWEEN 40% AND 50% OF MENTAL HEALTH VISITS WERE VIA TELEHEALTH.

In 2021, telemental services, compared to other telehealth services, did not see significant reductions in utilization and accounted for 40-50% of all mental health visits.

from Bipartisan Policy Center Report, Oct 2022

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TELEHEALTH FOR EMPLOYER-SPONSORED INSURANCE

The Problem

At the beginning of the COVID-19 pandemic, Congress passed the CARES Act, which temporarily waived the rule and allows Americans with HDHP-HSAs to access telehealth benefits from their employer or insurer pre-deductible. Unfortunately, this flexibility expires at the end of 2024, potentially denying millions of Americans access to telehealth services.

The Solution

Congress should pass the bi-partisan Telehealth Expansion Act, which permanently allows Americans with HDHP-HSAs to access telehealth without first meeting their deductible.

TELEHEALTH EXPANSION ACT

SUMMARY

- Current IRS regulation prohibits employees from contributing to Health Savings Accounts (HSAs) if they hold a High Deductible Health Plan (HDHP) that waives the deductible for telehealth services.
- Americans with HDHP health insurance plans typically must pay out-of-pocket for telehealth services.
- The Telehealth Expansion Act permanently extends the telehealth waiver for HDHP-HSAs to ensure that millions of Americans can continue to receive their care via telehealth without needing to meet their deductible first.

Sponsors:

Rep. Michelle Steel
R-CA-48

Sen. Steve Daines
R-MT

3/4 LARGE EMPLOYERS EXPANDED TELEHEALTH COVERAGE DURING THE PANDEMIC

In 2022, 75% of large employers offered access to lower- or no-cost mental health support through their telemental health provider.

from Business Group on Health

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AUDIO-ONLY TELEHEALTH

The Problem

While telehealth is key for providing needed access to care, many Americans lack the broadband internet connections necessary to maintain an audio-visual telehealth visit with their providers. Audio-only telehealth can help address these needs and reduce health disparities.

The Solution

Congress should pass the bi-partisan Permanency for Audio-Only Telehealth Act to allow Medicare beneficiaries to access audio-only telehealth services beyond 2024.

PERMANENCY FOR AUDIO-ONLY TELEHEALTH ACT

SUMMARY

- Allows providers to offer audio-only telehealth services to Medicare enrollees, providing them with the resources necessary to adequately care for their patients, specifically for behavioral health services.
- Permanently removes geographic and originating site restrictions for audio-only telehealth services.
- In many circumstances, a simple telephone call is all that is necessary for a provider to assess and discuss options with a patient or to refill a prescription that currently requires a provider's sign-off.

Sponsors:

Rep. Jason Smith
R-MO-8

AUDIO-ONLY IS POPULAR

Adults who had an audio-only visit reported similar levels of satisfaction at 63% compared to those with video visits at 64%.

from Bipartisan Policy Center, 2021

FRAUD IN TELEHEALTH?

A recurring concern for expanding telehealth is the potential for fraud. Since 2016, HHS-OIG has seen a significant increase in “telefraud”: scams that leverage aggressive marketing and so-called telehealth services. In these scams, care was not provided to beneficiaries or was unneeded to the patients.

Expanding telehealth permanently to Medicare beneficiaries and others should include strong anti-fraud protections for consumers and taxpayers.

HOW MUCH FRAUD?

0.0001% of Medicare Spending

TELEHEALTH RELATED FRAUD WAS NEGLIGIBLE IN 2020

In 2020, telehealth-suspected fraudulent claims constituted for 0.0001% of total Medicare spending.

calculated from OIG Data Brief (OEI-02-20-00720)

PROPOSED SOLUTIONS	
Requiring an in-person visit with a doctor before purchasing durable medical equipment (DME).	Fraud prevention should never hinder patient access to needed medical equipment and increase compliance costs. Many patients rely on DME for mobility and activities of daily living.
Requiring an in-person visit with a doctor before ordering "high-cost" laboratory testing.	Requiring an in-person visit will do little to prevent the improper ordering of lab tests. Most proposals do not even define "high-cost."
Use artificial intelligence and machine learning to analyze claims data to detect and stop fraud.	Requiring OIG to use A.I. in fraud enforcement can identify potential fraud, prevent improper payments, and return money to taxpayers while bolstering confidence in Medicare’s integrity.

GLOSSARY

TELEHEALTH/ TELEMEDICINE

The use of electronic communications for medical diagnosis and patient care.

ORGINATING SITE

The location where Medicare beneficiary receives telehealth service.

DEDUCTIBLE

Amount of out-of-pocket costs before health insurance plan will cover remaining costs.

CO-PAY & CO-INSURANCE

The amount or percent owed by the insured person for a covered service.

DISTANT SITE

A site where a healthcare provider is located while providing telehealth services.

HIGH DEDUCTIBLE HEALTH PLAN (HDHP)

A type of health insurance plan with a higher deductible and lower monthly premium. Can be combined with an HSA. Typically, used more for young and/or healthy individuals.

HEALTH SAVING ACCOUNT (HSA)

HSAs are tied to HDHP, a pre-tax saving account that allows beneficiaries to set aside money for qualified medical expenses.

VALUE-BASED PROGRAM (VBP)

VBPs reward healthcare providers with incentive payments for the quality of care given to Medicare beneficiaries.

ALTERNATIVE PAYMENT MODELS (APM)

Payment approach that gives incentive payments to provide high-quality & cost-efficient care.

Under quality payment program doctors choose either APM or MIPS.

MERIT-BASED INCENTIVE PAYMENT SYSTEM (MIPS)

Payment approach that uses composite performance score to determine Medicare payment adjustments.

REMOTE PATIENT MONITORING (RPM)

The use of technology to gather and analyze health information without a face-to-face appoinment or in-person testing.

FEDERALLY QUALIFIED HEALTH CENTER (FQHC)

Federally funded non-profit health center that serves medically underserved communities.

RURAL HEALTH CENTER (RHC)

A clinic located in a rural designated shortage area.

ACCOUNTABLE CARE ORGANIZATION (ACO)

Groups of healthcare providers and hospitals who come together to provide coordinated high-quality care to Medicare patients.