Telehealth & COVID-19: Policy

National Consortium of Telehealth Resource Centers
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Executive Director, CCHP

CENTER FOR CONNECTED HEALTH POLICY (CCHP)
is a non-profit, non-partisan organization that seeks to advance state and national telehealth policy to promote improvements in health systems and greater health equity.
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• Always consult with legal counsel.
• CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.
ABOUT CCHP

• Established in 2009
• Program under the Public Health Institute
• Became federally designated national telehealth policy resource center in 2012
• Work with a variety of funders and partners
CCHP PROJECTS

- 50 State Telehealth Policy Report
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition
NATIONAL CONSORTIUM OF TRCS

TelehealthResourceCenter.org

Telehealth Resource Centers

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TELEHEALTH STATE-BY-STATE POLICIES, LAWS & REGULATIONS

Search by Category & Topic

**Medicaid Reimbursement**
- Live Video
- Store & Forward
- Remote Patient Monitoring Reimbursement

**Private Payer Reimbursement**
- Private Payer Laws
- Parity Requirements

**Professional Regulation/Health & Safety**
- Cross-State Licensing
- Consent
- Prescribing
- Misc (Listing of Practice Standards)

Interactive Policy Map

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### CMS TELEHEALTH POLICY - NOW

<table>
<thead>
<tr>
<th>PRE-COVID-19</th>
<th>WITH WAIVER INSTITUTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geographic Limitation (must take place rural area/non-MSA)</td>
<td>Temporarily waived. All geographic locations now qualify</td>
</tr>
<tr>
<td>Specific type of health site (specific list of eligible facilities and narrow exceptions for the home)</td>
<td>Temporarily waived. Other locations can now act as the originating site such as the home.</td>
</tr>
<tr>
<td>Eligible Providers (specific list of providers)</td>
<td>No change. FQHCs and RHCs, allied health professionals still cannot act as distant site providers.</td>
</tr>
<tr>
<td>Modality – Live Video with Hawaii &amp; Alaska allowed to use Store &amp; Forward</td>
<td>No change. However, some services can be provided via “technology-based communications” that are not considered “telehealth” by Medicare</td>
</tr>
<tr>
<td>Services</td>
<td>No change. However, CMS has said that the removal of the location restrictions will apply to delivery of all eligible services that are reimbursed if provided via telehealth, not just those related to treatment of COVID-19</td>
</tr>
<tr>
<td>Facility Fee</td>
<td>Will not receive facility fee: home and any other site that is not included in the original list of eligible sites pre-COVID-19.</td>
</tr>
</tbody>
</table>
### OTHER QUESTIONS

<table>
<thead>
<tr>
<th>Question</th>
<th>CMS FAQ</th>
</tr>
</thead>
<tbody>
<tr>
<td>HR 6074 said to utilize telehealth to provide services under the waiver, I need a prior existing relationship.</td>
<td>That requirement is still there but CMS has said that HHS will not conduct audits to ensure that such a prior relationship existed for claims submitted during this public health emergency.</td>
</tr>
<tr>
<td>Do co-pays and out-of-pockets still apply?</td>
<td>Still applies, but the OIG is providing health care providers flexibility to reduce or waive fees.</td>
</tr>
<tr>
<td>Can smartphones be used?</td>
<td>Under HR 6074, yes.</td>
</tr>
<tr>
<td>How much flexibility do I have under HIPAA now? Is Facetime OK?</td>
<td>OCR “will exercise enforcement discretion and waive penalties for HIPAA violations.” Keep in mind you may still have state requirements to meet. OCR guidance: <a href="https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html">https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html</a></td>
</tr>
<tr>
<td>Licensure</td>
<td>It appears the licensure requirement to be licensed in the state the patient is located in was waived for Medicare reimbursement. Does not impact state law.</td>
</tr>
</tbody>
</table>

The declaration of the national emergency enacted one of the exceptions to the Ryan Haight Act for telehealth (telemedicine as it is referred to in the Act).

For as long as the Secretary’s designation of a public health emergency remains in effect, DEA-registered practitioners may issue prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice
- The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system.
- The practitioner is acting in accordance with applicable Federal and State law.

https://www.deadiversion.usdoj.gov/coronavirus.html
What does the waiver mean for FQHCs/RHCs under Medicare?

- FQHC/RHCs still CANNOT act as distant site providers
- However, facilities excluded from acting as originating sites due to geographic limitations are now eligible
- Additionally, there are other services not considered “telehealth” that utilize telehealth technologies that FQHCs and RHCs can provide
## TECHNOLOGY ENABLED/COMMUNICATIONS-BASED SERVICES

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>MODALITY</th>
<th>AVAILABLE TO FQHC/RHC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Virtual Check-In Codes G2010, G2012</td>
<td>Live Video, Store-and-Forward or Phone</td>
<td>Yes (use G0071)</td>
</tr>
<tr>
<td>Interprofessional Telephone/Internet/EHR Consultations (eConsult)</td>
<td>Can be over phone, live video or store-and-forward</td>
<td>No</td>
</tr>
<tr>
<td>99446, 99447, 99448, 99449, 99451, 99452</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remote monitoring services:</td>
<td>RPM</td>
<td>CCM, TCM</td>
</tr>
<tr>
<td>Chronic Care Management (CCM); Complex Chronic Care Management (Complex CCM);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transitional Care Management (TCM); Remote Physiologic Monitoring (Remote PM);</td>
<td></td>
<td></td>
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<tr>
<td>Principle Care Management (PCM)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Online Digital Evaluation (E-*Visit) – G2061-2063</td>
<td>Online portal</td>
<td>No</td>
</tr>
<tr>
<td>Online medical Evaluations – 99421-99423</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
MEDICAID REIMBURSEMENT BY SERVICE MODALITY
(Fee-for-Service)

Live Video
50 states and DC

Store and Forward
Only in 14 states

Remote Patient Monitoring
22 states

As of October 2019
40 states and DC have telehealth private payer laws

Some go into effect at a later date.

Parity is difficult to determine:

- Parity in services covered vs. parity in payment
- Many states make their telehealth private payer laws “subject to the terms and conditions of the contract”

As of October 2019
States updating Medicaid policies to utilize telehealth
Licensure waivers – many centering around certain rules in Medicaid but also around meeting certain deadlines and renewals
Expanded policies to include provision of services via phone
Waiving of co-pays, deductibles, etc.
Florida – Approved
- Payable claims by out of state providers not enrolled in FL Medicaid (certain conditions need to be met)

California – Submitted
- Waiver of face-to-face requirement for FQHCs, RHCs and Tribal Health
- General request to allow for greater flexibility to use phone and telehealth
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