Medicare Telehealth Program Expanded During COVID-19

During this global pandemic and unprecedented time, healthcare is quickly evolving to include a greater opportunity for remote or virtual doctor visits, also known as “telehealth.” While this technology isn’t new, the growing need and use for telehealth has exploded and will likely change the future of our healthcare system post-COVID-19 and beyond. It’s now as simple as using your smartphone, laptop, or other electronic devices that have audio and visual capabilities. You are likely familiar with some of the well-known apps such as Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, and Skype which can be used for telehealth visits.

Telehealth offers patients and providers the valuable opportunity to continue care while reducing the exposure to and transmission of COVID-19 in the healthcare setting. Under the COVID-19 public health emergency, the necessity of face-to-face patient/physician visits can be reduced through the new and expanded approval of telehealth (audio/visual) and other remote-visits (phone/audio only) options. With the ability to access long-distance clinical health care and obtain provider services remotely, patients can stay at home and still see their doctors and providers virtually while following the CDC social distancing guidelines. For the basics on telemedicine, click here.

As you may have seen on the news, the Trump Administration holds daily COVID-19 briefings regarding public policy changes that periodically include legislative updates and expanded regulatory policies from HHS and CMS. The legislative and regulatory changes regarding telehealth are rapidly expanding in real-time due to the COVID-19 urgency and existing historical barriers with state and federal telehealth regulations.

While these policy changes can be confusing and difficult to navigate, below is a summary of the major Medicare telehealth policy revisions in place and underway. Also included, is a detailed bullet list from key telehealth resources that may be useful to both the patient and provider communities. You’ll find the following four key areas in addition to the fifth section with provider resources.

I. Medicare Telehealth (e.g., audio and visual)
Telehealth Policy Summary

The Centers for Medicare and Medicaid Services (CMS) instituted an emergency broadening of Medicare telehealth services made retroactive to March 6, 2020. Based on legislation (HR 6074 and HR 6201), Section 1135 Waiver Authority, and CMS Blanket Waivers for Health Care Providers, Medicare patients and providers may use telehealth technology for various services including consultations [evaluation and management (E/M) services] that previously required face-to-face visits. In addition, these rapid policy changes in telehealth have, for the duration of our current public health emergency, removed the stipulation that telehealth can only be provided in specially designated rural areas and using specific audio-visual equipment.

In a new Interim Final Rule made retroactive to March 1, 2020, CMS further broadened its Medicare telehealth program, now allowing for an expanded list of E/M on their telehealth approved list and establishing new codes for telephone-only E/M services (CPT 99441-99443). While CMS has already approved the use of smartphones with both audio and visual capability, the use of non-HIPAA compliant platforms and apps such as Skype are now also allowed. Lastly, providers can include new patients among those receiving telehealth services in addition to their established patients, and no longer have to comply with frequency limits.

I. Medicare Telehealth (e.g., audio and visual) – CMS Provider Fact Sheet

- CMS recently updated and expanded the list of Medicare telehealth services that were typically performed in person and now include office, hospital visit, or other face-to-face visits.
- Telehealth visits are considered the same as in-person visits and paid at the same rate as in-person visits.
Telehealth is available to established Medicare patients via phones that allow for audio-video interaction between the physician and patient.

The Department of Health and Human Services (HHS) announced that it will not conduct audits to ensure a prior relationship existed for claims submitted during the COVID-19 public health emergency. This means that telehealth services can be provided to both new and established patients.

Telehealth may be provided in all settings, including a patient's home. Originating site restrictions have been waived. With the 1135 Waiver, as of March 6th, 2020, there's no longer the stipulation that telehealth must be performed in a rural geographic location, etc.

Check on your state actions and telehealth licensure and waivers here and/or on the CMS link.

Providers:

- CMS is instructing qualified providers to bill services delivered via telehealth with the same Place of Service (POS) code they would have used if the service had been provided in-person.
  - Claims billed with the POS 02 will be paid at the facility rate under the Medicare physician fee schedule.
- Modifier -95 should be added to the claim lines that describe services delivered via telehealth.
- Physicians can select the level of office/outpatient E/M furnished via telehealth using medical decision making or time.
- Time is defined as all the time associated with the E/M on the day of the encounter. The current typical times associated with office E/M are what should be met for the purposes of level selection. They can be found here.
- CMS is maintaining the current definition of medical decision making.
- CMS has also removed any requirements regarding documentation of history and/or physical exam in the medical record for office/outpatient E/M encounters provided via telehealth.

II. Medicare Non-Telehealth - other remote-visits (e.g. phone/audio).

- Telephone Evaluation and Management Services (CPT 99441-99443)
On March 30, 2020, CMS finalized payment for telephone evaluation and management (E/M) services (CPT 99441-99443). Effective March 1, 2020, the codes will be considered active and payable for the duration of the COVID-19 pandemic. CMS will allow physicians to provide telephone E/M services for new and established patients.

- Telephone E/M services are provided to a patient, parent, or guardian and do not originate from a related E/M service within the previous seven days and do not lead to an E/M service or procedure within the next 24 hours or soonest available appointment.
- Physicians can reduce or waive cost-sharing for these services (if they so choose).

Provider:
- The following codes may be used by physicians or other qualified health professionals who may report E/M services:
  - 99441: telephone E/M service; 5-10 minutes of medical discussion
  - 99442: telephone E/M service; 11-20 minutes of medical discussion
  - 99443: telephone E/M service, 21-30 minutes of medical discussion.

- Medicare Virtual Check-ins (G2010 and G2012)
  - Enable a quick provider/patient visit to determine if an in-person visit is necessary. Effective March 1, 2020, these services can be provided to new and established patients.

Provider:
- Are brief (5-10 minutes) conversations with a physician or other clinician, where the communication is not related to a medical visit within the previous seven days and does not lead to medical visit(s) within the next 24 hours (or soonest appointment available).
- Can be conducted through multiple communication technology modalities, including synchronous telephone conversation or exchange of information through video or image.
- Physician or other clinician may respond to patient by telephone, audio/video, secure text messaging, email, or patient portal.
- Are initiated by the patient, and patient must provide verbal consent. Consent may be obtained before or at the time of service.
Physicians can reduce or waive cost-sharing for these services.

G2010 can be used when a captured video or image is sent to the physician. The physician must follow up with the patient within 24 business hours. The consultation must not originate from an evaluation and management (E/M) service provided within the previous seven days or lead to an E/M service within the next 24 hours (or soonest available appointment).

Medicare E-Visits (online digital evaluation and management services)
- Are non-face-to-face, patient-initiated communications with the physician through an online patient portal. The communications can occur over a seven-day period, and the exchange must be stored permanently.
- Effective March 1, 2020, these services can be provided to new and established patients.
- Patients must verbally consent to services. Consent may occur before or at the time of service.
- Physicians can reduce or waive cost-sharing for these services.

Provider:
- Physicians and other clinicians who may independently bill Medicare for E/M services can use the following codes.
  - 99421: Online digital evaluation and management service, for a patient, for up to 7 days, cumulative time during the 7 days; 5-10 minutes
  - 99422: Online digital evaluation and management service, for a patient, for up to 7 days, cumulative time during the 7 days; 11-20 minutes
  - 99423: Online digital evaluation and management service, for a patient, for up to 7 days, cumulative time during the 7 days; 21 or more minutes

III. Cost-Sharing
- The HHS Office of Inspector General (OIG) is allowing practices to waive cost-sharing for telehealth visits. This means physicians and providers have the authority to waive or reduce co-pays etc. for telehealth.
- Medicare (CMS) allows issuers in the individual and group markets to amend plan benefits during a plan year to provide or expand coverage for telehealth services and to reduce or eliminate cost-sharing for the same.
• For commercial insurance plans, waived telehealth fees during COVID-19 is dependent on the individual insurance company. However, a list of the private insurance plans and their COVID-19 policies can be found here.

• The Cost-sharing Waiver (FAQ) is retroactive to March 18, 2020, through the end of the public health emergency under Medicare Part B. The Families First Coronavirus Response Act waives cost-sharing for Medicare Part B patients for COVID-19 testing-related services, as well as for office visits that result in the order or administration of the COVID-19 test, and the evaluation of an individual to determine the need for such a test.

  Providers:
  o Physicians should use the -CS modifier on applicable claim lines to identify the service subject to the Cost-sharing Waiver.
  o Medicare beneficiaries should not be charged for any coinsurance or deductible for those services. The -CS modifier will signal the appropriate Medicare Administrative Contractor to pay 100% of the allowable claim for the service.
  o The -CS modifier should ONLY be used for services related to COVID-19.

IV. Medicare Telehealth – Approved Technologies/Applications

• HIPAA Compliant Products
  o HIPAA-compliant video communication products include Skype for Business, Updox, VSee, Zoom for Healthcare, Doxy.me, and Google G Suite Hangouts Meet.

• Non-HIPAA Compliant Products - Temporary options accepted for telehealth video visits
  o As of the March 17 HHS OCR announcement, (and during the COVID-19 National Public Health Emergency), you may use apps that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, and Skype, to provide telehealth without the risk that OCR (HHS Office of Civil Rights) may impose penalties for noncompliance with HIPAA.
  o Federal enforcement discretion will likely not impact individual states’ laws and regulations regarding the protection and security of health information. Additional information from the OCR can be found here, including further flexibilities available, as well as obligations that remain in effect under HIPAA.
Note: Public-facing video and messaging products and applications should NOT be used. Examples include Facebook Live, Twitch, and TikTok.

V. Provider Resources:

- Legislative:
  - Families First Coronavirus Response Act [FFCRA Part 42 FAQs](https://www.hhs.gov/ocr/privacy/hipaa/faq/index.html)
  - COVID-19 Legislative and Presidential Documents

- Telehealth and Licensures:
  - Expansion of Telehealth and Licensing Waivers During the COVID-19 Pandemic - [State Telehealth & Licensure Expansion Dashboard](https://telehealthwaivers.cdc.gov/)
  - States Waiving Telehealth Licensure Requirements

- General Telehealth Guidance:
  - AAFP Using Telehealth to Care for Patients During the COVID-19 Pandemic
  - Center for Connected Health Policy: Telehealth Coverage Policies in the Time of COVID-19 to Date
  - ACP Telehealth Technology (HIPAA & Non-HIPAA Compliant Options)
  - AMA Telemedicine Quick Set-up Guide in response to the COVID-19
  - AMA COVID-19 Telehealth Guidance

- Coding Resources:
  - AMA COVID-19 Coding Advice
  - AAFP Coding Guidance for Telehealth - Need help with telehealth coding?

- Telemedicine Basics:
  - What is Telemedicine?
  - What is Telemedicine and Telehealth?

- CMS Resources:
  - Section 1135 Waiver Authority
  - CMS Blanket Waivers
  - Virtual Communication Services in Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs) FAQs
The GO2 Foundation for Lung Cancer will continue to closely monitor the telehealth rules and regulations. Currently, we are collaborating with coalitions and key stakeholders in responding to and commenting on the COVID-19 CMS Interim Final Rule and regulations. We also are advocating for continued expanded telehealth post-COVID-19 and hope to better address the lack of broadband internet access, state-level restrictions, private insurance limitations, and other barriers impacting the lung cancer community. While there have been some concerns around telehealth patient privacy and data security, it is important that technology and healthcare advance and patient-centered telehealth expansion continue.

If you have any questions regarding telehealth, please contact Anita McGlothlin, Director of Economics and Health Policy at amcglothlin@go2foundation.org.