

FORVIS™

PHE END COUNTDOWN SERIES: TELEHEALTH INSIGHTS

April 6, 2023



TO RECEIVE CPE CREDIT

- **You must respond to at least 3 of the 4 polling questions per CPE hour**
- **You must be logged in for a minimum of 50 minutes per every CPE hour in order to receive CPE credit**

DISCLAIMER

The educational materials provided herein, & the topics covered in this session are based on guidelines established by the Centers for Medicare & Medicaid Services (CMS).

These materials were created to provide information regarding leading practices, service code regulations, impact on pay for performance, & additional strategies. Materials relied upon the date of this report & education, would need to be evaluated further for continued applicability as regulations are updated frequently. FORVIS has no contractual obligation to update these materials & disclaims all liability relating thereto.

We have created these materials subject to consulting standards, not attest standards & our activities do not constitute an audit &, accordingly, we are not issuing an opinion or providing assurance relative to the subject matter.

FORVIS

MEET THE PRESENTERS



Valorie Clouse

Senior Managing Consultant

valorie.clouse@forvis.com



Stacey Gee

Managing Consultant

stacey.gee@forvis.com



Brenda Christman

Managing Director

brenda.christman@forvis.com

AGENDA

- Overview of PHE Ending
- Permanent Medicare Changes in Telehealth
- Temporary Medicare Changes Thru December 31, 2024
- Temporary Flexibilities Set to Expire on May 11, 2023
- Audit Considerations for Telehealth Services

TELEHEALTH TRENDS

38x

Telehealth utilization has stabilized at levels 38 times higher than before the pandemic

57%

57% of providers view telehealth more favorably than before COVID-19 & 64% are more comfortable using it

50%

Telehealth uptake varies by specialty, with the highest penetration in psychiatry

PUBLIC HEALTH EMERGENCY COUNTDOWN- TELEHEALTH

On December 3, 2020, the Department of Health & Human Services (HHS) offered grants to support broader use of telehealth services including in Medicare, private insurance, & through other federally funded providers – all in response to COVID

The current Administration has announced its intent to end the COVID public health emergency (PHE) on May 11, 2023

Upon the end of the PHE, some telehealth policies will end immediately, other policies will have an allowance for transition (December 31, 2024), & some policies will remain

THE CONSOLIDATED APPROPRIATIONS ACT, 2023

The *Consolidated Appropriations Act, 2023*, extended many telehealth flexibilities through December 31, 2024, such as

- People with Medicare can access telehealth services in any geographic area in the United States, rather than only those in rural areas
- People with Medicare can stay in their homes for telehealth visits that Medicare pays for rather than traveling to a health care facility
- Certain telehealth visits can be delivered audio-only (such as a telephone) if someone is unable to use both audio & video, such as a smartphone or computer

Source: [CMS Waivers, Flexibilities, and the Transition Forward from the COVID-19 Public Health Emergency | CMS](#)

TYPES OF SERVICE DELIVERED VIA TELEHEALTH

Live Audio/Video

- Real-time, two-way audiovisual connection between patient & provider (synchronous)

Virtual Check-Ins/E-Visits

- Patient initiated
- Transmission of recorded health information to a provider (asynchronous)

Remote Physiologic Monitoring

- Use of electronic tools to monitor & record a patient's physiological status which transmit the data to a provider in a setting other than where the patient is physically located

MEDICARE & TELEHEALTH

Prior to the Public Health Emergency

- Medicare only paid for telehealth services under limited circumstances
 - Limited “originating sites” (*i.e.*, patient location)
 - *Designated rural areas*
 - *Specific facility locations (patient home was NOT an originating site)*
 - *Some demonstration projects*
 - Limited modalities: “telecommunication system” – CMS regulations require two-way audio & video
 - Limited eligible professionals & providers (did not include FQHCs & RHCs)
 - Limited CMS list of telehealth codes

MEDICARE & TELEHEALTH

After the Public Health Emergency

- People with Medicare can access telehealth services in any geographic area in the United States, rather than only those in rural areas
- People with Medicare can stay in their homes for telehealth visits that Medicare pays for rather than traveling to a healthcare facility
- Certain telehealth visits can be delivered audio-only (such as a telephone) if someone is unable to use both audio & video, such as a smartphone or computer

MEDICARE ADVANTAGE, ACO, & TELEHEALTH

Medicare Advantage plans may offer additional telehealth benefits

Individuals in a Medicare Advantage plan should check with their plan about coverage for telehealth services

Additionally, after December 31, 2024, when these flexibilities expire, some Accountable Care Organizations (ACOs) may offer telehealth services that allow primary care doctors to care for patients without an in-person visit, no matter where they live

If your healthcare provider participates in an ACO, check with them to see what telehealth services may be available

MEDICAID, CHIP, & TELEHEALTH

- For Medicaid & CHIP, telehealth flexibilities are not tied to the end of the PHE & have been offered by many state Medicaid programs long before the pandemic. Coverage will ultimately vary by state. CMS encourages states to continue to cover Medicaid & CHIP services when they are delivered via telehealth.
- To assist states with the continuation, adoption, or expansion of telehealth coverage, CMS has released the State Medicaid & CHIP Telehealth Toolkit & a supplement that identifies for states the policy topics that should be addressed to facilitate widespread adoption of telehealth

<https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit-supplement1.pdf>

PRIVATE HEALTH INSURANCE & TELEHEALTH

- As is currently the case during the PHE, coverage for telehealth & other remote care services will vary by private insurance plan after the end of the PHE. When covered, private insurance may impose cost-sharing, prior authorization, or other forms of medical management on telehealth & other remote care services
- For additional information on your insurer's approach to telehealth, contact your insurer's customer service number located on the back of your insurance card

PERMANENT MEDICARE TELEHEALTH CHANGES



PERMANENT MEDICARE CHANGES

Federally Qualified Health Centers (FQHCs) & Rural Health Centers (RHCs) can serve as a distant site provider for *behavioral/mental telehealth services*

Medicare patients can receive telehealth services for *behavioral/mental healthcare* in their homes

There are no geographic restrictions for originating site for behavioral/mental telehealth services

Behavioral/mental telehealth services can be delivered using audio-only communication platforms

Rural hospital emergency departments are accepted as an originating site

TELEHEALTH

Permanent Changes

Federally Qualified Health Centers (FQHCs) & Rural Health Centers (RHCs) can serve as a distant site provider for behavioral/mental telehealth services

Waiver is permanent for tele-behavioral health services subject to certain restrictions effective 1/1/25

There are no geographic restrictions for originating site for behavioral/mental telehealth services

Geographic & location restrictions will be waived through December 31, 2024

TELEHEALTH

Permanent Changes

FORV/S

Medicare patients can receive telehealth services for ***behavioral/mental healthcare*** in their homes

- Medicare patients can receive telehealth services for behavioral healthcare in their homes in any part of the country. This includes most behavioral health services, such as counseling, psychotherapy, & psychiatric evaluations
- The in-person visit requirements before a patient may be eligible for tele-behavioral healthcare services are delayed through December 31, 2024

Sources: [Consolidated Appropriations Act, 2021](#) (PDF), [Consolidated Appropriations Act, 2022](#) (PDF), [CMS CY 2022 Physician Fee Schedule](#) (PDF), [CMS CY 2023 Physician Fee Schedule](#) (PDF) [Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov](#)

TELEHEALTH

Permanent Changes

FORVIS

Behavioral/mental telehealth services can be delivered using audio-only communication platforms

- Medicare patients can receive telehealth services for behavioral healthcare in their homes in any part of the country. This includes most behavioral health services, such as counseling, psychotherapy, & psychiatric evaluations
- The in-person visit requirements before a patient may be eligible for tele-behavioral healthcare services are delayed through December 31, 2024
 - FQHC: In-person visit requirements delayed until January 1, 2025

Sources: [Consolidated Appropriations Act, 2023](#) (PDF), [Consolidated Appropriations Act, 2022](#) (PDF), [Consolidated Appropriations Act, 2021](#) (PDF)

TELEHEALTH

Permanent Changes

FORVIS

Rural hospital emergency departments are accepted as an originating site

- Ensure that all practitioners furnishing telehealth services to hospital patients pursuant to agreements with distant site hospitals or distant-site telemedicine entities have been credentialed & granted privileges in compliance with regulatory requirements (42 CFR §482.12(a) (8)–(9))
- Rural Emergency Hospitals (REHs) were added as eligible Medicare originating sites for telehealth. This allows patients to be located at an REH when receiving telehealth services. The REH needs to meet the Health Resources & Services Administration’s (HRSA) “rural” classification to bill Medicare as an originating site

Sources: [Consolidated Appropriations Act, 2023](#) (PDF), [Consolidated Appropriations Act, 2021](#) (PDF)

TEMPORARY FLEXIBILITIES EXPIRING ON DECEMBER 31, 2024



Temporary Flexibilities Expiring on December 31, 2024

Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) can serve as a distant site provider for non-behavioral/mental telehealth services

Medicare patients can receive telehealth services authorized in the *Calendar Year 2023 Medicare Physician Fee Schedule* in their home

There are no geographic restrictions for originating site for non-behavioral/mental telehealth services

Some non-behavioral/mental telehealth services can be delivered using audio-only communication platforms

An in-person visit within six months of an initial behavioral/mental telehealth service, & annually thereafter, is not required

Telehealth services can be provided by a physical therapist, occupational therapist, speech language pathologist, or audiologist

Telehealth

Temporary Flexibilities Expiring on December 31, 2024

- Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) can serve as a distant site provider for non-behavioral/mental telehealth services
- Medicare patients can receive telehealth services authorized in the [Calendar Year 2023 Medicare Physician Fee Schedule](#) in their home

Telehealth

Temporary Flexibilities Expiring on December 31, 2024

- There are no geographic restrictions for originating site for non-behavioral/mental telehealth services
- Some non-behavioral/mental telehealth services can be delivered using audio-only communication platforms

Telehealth

Temporary Flexibilities Expiring on December 31, 2024

- An in-person visit within six months of an initial behavioral/mental telehealth service, & annually thereafter, is not required
- Telehealth services can be provided by a physical therapist, occupational therapist, speech language pathologist, or audiologist

TEMPORARY FLEXIBILITIES EXPIRING ON MAY 11, 2023



TEMPORARY FLEXIBILITIES SET TO EXPIRE ON MAY 11, 2023

(With the end of the COVID-19 PHE)

- Telehealth can be provided as an excepted benefit
- Medicare-covered providers may use any non-public facing application to communicate with patients without risking any federal penalties — even if the application isn't in compliance with the Health Insurance Portability & Accountability Act of 1996 (HIPAA)
 - During the COVID-19 public health emergency (PHE), authorized providers can prescribe controlled substances via telehealth, without the need for an in-person medical evaluation. The Administration's plan is to end the COVID-19 public health emergency on May 11, 2023
 - During the public health emergency, CMS waived the “established patient” requirement & allowed providers to bill for remote patient monitoring (RPM) for new patients. Once the PHE ends, CMS will require that RPM services be furnished only to established patients
 - CMS' statements suggests after the PHE the physician must first conduct a new patient evaluation & management service before rendering RPM to such patient

Source: [Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth; Families First Coronavirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov](#)

TELEHEALTH

Temporary Changes —
Expiring
May 11, 2023

FORVIS

- Telehealth can be provided as an excepted benefit
- Medicare-covered providers may use any non-public facing application to communicate with patients without risking any federal penalties — even if the application isn't in compliance with the Health Insurance Portability & Accountability Act of 1996 (HIPAA)

Source: [Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth; Families First Coronavirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov](#)

TELEHEALTH

Temporary Changes –
Expiring
May 11, 2023

During the COVID-19 public health emergency (PHE), authorized providers can prescribe controlled substances via telehealth without the need for an in-person medical evaluation. The Administration's plan is to end the COVID-19 public health emergency on May 11, 2023

- Ryan Haight Act's in-person exam requirement. Passed into law in 2008, the Ryan Haight Online Pharmacy Consumer Protection Act severely restricts the prescription of controlled substances & requires an in-person exam by a qualified provider before those drugs can be prescribed via telemedicine. Enforcement is handled by the US Drug Enforcement Agency (DEA)

Source: [Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth; Families First Coronavirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation; Telehealth policy changes after the COVID-19 public health emergency | Telehealth.HHS.gov](#)

TELEHEALTH

Temporary Changes –
Expiring
May 11, 2023

FORV/S

During the public health emergency, CMS waived the “established patient” requirement & allowed providers to bill for remote patient monitoring (RPM) for new patients. Once the PHE ends, CMS will require that RPM services be furnished only to established patients

- CMS’ statements suggest after the PHE the physician must first conduct a new patient evaluation & management service before rendering RPM to such patient

Source: [Guidance on How the HIPAA Rules Permit to Use Remote Communication Technologies for Audio-Only Telehealth](#); [Families First Coronavirus Response Act and Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation](#); [Telehealth policy changes after the COVID-19 public health emergency](#) | [Telehealth.HHS.gov](https://www.hhs.gov/telehealth)

ADDITIONAL ITEMS TO KNOW

Medicare Provider Enrollment

- Effective January 1, 2024, practitioners who render telehealth services from their home will be required to report their home address on their Medicare enrollment

Home Health Agencies

- Required face-to-face encounters for home health may be performed via telehealth through 12/31/24

Hospice

- Re-certification of eligibility for hospice may be performed via telehealth through 12/31/24

Inpatient Rehabilitation Facilities

- Discontinue use of telehealth for required three-times-per-week face-to-face visits by physician or nonphysician practitioner for inpatient rehabilitation facility patients

ADDITIONAL ITEMS TO KNOW

Virtual Supervision

- CMS temporarily changed the definition of “direct supervision” to allow the supervising healthcare professional to be immediately available through virtual presence using real-time audio/video technology instead of requiring their physical presence
- CMS also clarified that the temporary exception
 - Allow immediate availability for direct supervision through virtual presence also facilitates the provision of telehealth services by clinical staff “incident to” the professional services of physicians & other practitioners. This flexibility will expire on December 31, 2023

AUDIT CONSIDERATIONS FOR TELEHEALTH SERVICES



PREPARE FOR AUDITS

Office of Inspector General (OIG) Scrutiny

CMS Paid Practitioners for Telehealth Services That Did Not Meet Medicare Requirements – April 5, 2018 / Audit A-05-16-00058

- Analyzed 2014 & 2015 telehealth claims & found that more than half of the professional telehealth claims paid by Medicare did not have matching originating-site facility fee claims. Therefore, then focused the review on telehealth claims billed through a distant site that did not have a corresponding originating-site fee, totaling \$13.8 million
- The OIG noted that the deficiencies occurred “because CMS did not ensure that (1) there was oversight to disallow payments for errors where telehealth claim edits could not be implemented, (2) all contractor claim edits were in place, & (3) practitioners were aware of Medicare telehealth benefit requirements”

PREPARE FOR AUDITS

Office of Inspector General (OIG) Scrutiny

Identified 1,714 providers who billed telehealth services for about half a million beneficiaries

May have billed for telehealth services that were not medically necessary or were never provided

Received a total of \$127.7 million in Medicare FFS payments

PREPARE FOR AUDITS

Program Integrity Measures – 7 measures

1. Billed both a **telehealth service** & a **facility fee (in person)** for most visits
2. Billed telehealth services at the **highest, most expensive level** every time
3. Billed telehealth services for a **high number of days** in a year
4. Billed both **Medicare FFS & a Medicare Advantage plan for the same service** for a high proportion of services
5. Billed a **high average number of hours** of telehealth services per visit
6. Billed telehealth services for a **high number of beneficiaries**
7. Billed for a telehealth service & **ordering medical equipment** for a high proportion of beneficiaries

PREPARE FOR AUDITS

Office of Inspector General (OIG) Scrutiny

Audits of Medicare Part B
Telehealth Services During the
COVID-19 Public Health
Emergency

FORVIS

“Phase one audits will focus on making an early assessment of whether services such as evaluation & management, opioid use disorder, end-stage renal disease, & psychotherapy (Work Plan number W-00-21-35801) meet Medicare requirements”

“Phase two audits will include additional audits of Medicare Part B telehealth services related to distant & originating site locations, virtual check-in services, electronic visits, remote patient monitoring, use of telehealth technology, & annual wellness visits to determine whether Medicare requirements are met”

Source: [OIG General Data Brief, Sept 2022, EI-02-20-00720, Audits of Medicare Part B Telehealth Services During the COVID-19 Public Health Emergency \(hhs.gov\)](#)

PREPARE FOR AUDITS

Office of Inspector General (OIG) Scrutiny

Telehealth Update – April 4, 2022

- “While the expansion of telehealth has been critical to maintaining beneficiaries' access to care, it is important that new policies & technologies with potential to improve care & enhance access achieve these goals & are not compromised by fraud, abuse, or misuse”
- OIG is conducting significant oversight work assessing telehealth services, including the impact of the public health emergency flexibilities. Once complete, these reviews will provide objective findings & recommendations that can further inform policymakers & other stakeholders considering changes to telehealth policies. This work can help ensure the potential benefits of telehealth are realized for patients, providers, & HHS programs”

PREPARE FOR AUDITS

Telephone Services – CPT codes 99441-99443

Follow CPT guidance – telephone calls **initiated by an established patient** & have certain restrictions. If the call includes the decision to see the patient in the next 24 hours or next available appointment, it cannot be billed. If the call refers to an E/M service reported by the QHP within the past 7 days, the telephone codes cannot be used

- Follow time-based rules
- These calls are initiated by the patient or guardian

PREPARE FOR AUDITS

Document as if an Actual Face-to-Face Encounter

Time spent in medical discussion to support the procedure code billed (E/M)

Don't use canned statements, documentation should always be patient-specific

Timely physician authentication

Medical necessity – only provide telehealth when clinically appropriate

Do not bill for telehealth if it is an administrative or non-clinical discussion, *i.e.*, follow-up lab results

Document start/stop times for behavioral health therapy

Document patient location, provider location, & patient consent to telehealth

FORV/S

PREPARE FOR AUDITS

Common Challenges

- Assemble your communications/interdisciplinary team(s)
- Draft communication alerts based on key dates
- Incorporate telehealth training & education
- Accurate documentation
- New policies & procedures for telehealth
- Regular auditing & monitoring
- Preserve historical claims & medical documentation
- Comply with HIPAA guidance – secure platforms
- Be proactive – OIG Work Plan
- Conduct periodic post-payment reviews
- Address quickly what you already know
- Outside legal counsel
- Have a corporate compliance plan assessment

FORVIS™

Q&A



PHE End Countdown Series

Thursdays • 3–4 p.m. ET

REGISTER NOW



CONTINUING PROFESSIONAL EDUCATION (CPE) CREDIT



FORVIS, LLP is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.nasbaregistry.org

FORVIS

CPE CREDIT

- CPE credit may be awarded upon verification of participant attendance
- For questions, concerns, or comments regarding CPE credit, please email FORVIS at cpecompliance@forvis.com

Thank you

forvis.com

The information set forth in this presentation contains the analysis and conclusions of the author(s) based upon his/her/their research and analysis of industry information and legal authorities. Such analysis and conclusions should not be deemed opinions or conclusions by FORVIS or the author(s) as to any individual situation as situations are fact specific. The reader should perform its own analysis and form its own conclusions regarding any specific situation. Further, the author(s) conclusions may be revised without notice with or without changes in industry information and legal authorities. FORVIS has been registered in the U.S. Patent and Trademark Office, which registration is pending.

FORVIS

Assurance / Tax / Advisory