

TELEHEALTH/TELEMEDICINE REGULATORY IMPLICATIONS OF THE COVID-19 PANDEMIC

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Student Team: COVID-19 Pandemic Regulatory Implications with tele-health and telemedicine

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MEDICARE AND TELEHEALTH

According to the Texas Medical Association (TMA):

- Some tele-health flexibilities will end 151 days after May 11, 2023, or on Dec 31, 2023, while other tele-health services will remain till Dec 31, 2024.
- See Table 1 for more information.

General Temporary Medicare changes till December 31, 2024:

- Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) can serve as distant providers of non-behavioral/mental tele-health services.
- Medicare patients can receive tele-health services at their home
- Audio-only communication platforms can be used for some non-behavioral/mental services
- It is not required to have an in-person visit within 6 months of initial mental/behavioral health service and annually thereafter.
- The list of providers eligible to deliver tele-health services is expanding

Controlled Substances and Telehealth

From the U.S. Department of Health and Human Services website:

These telemedicine flexibilities will remain till November 11, 2023.

- A practitioner can prescribe a controlled substance to a patient using telemedicine, even if the patient is not at a DEA-registered clinic or hospital.
- Based on telephone evaluation by a qualifying practitioner, buprenorphine can be prescribed to new and existing patients with opioid use disorder.

MEDICAID AND TELEHEALTH

➤ In Texas, live video, store-and-forward, remote patient monitoring, and audio are only reimbursed in some cases.

➤ More information on the Center for Connected Health Policy (CCHP) website (<https://www.cchpca.org/texas/>).

HIPAA AND TELEHEALTH

From the U.S. Department of Health and Human Services website:

HIPAA flexibilities were discontinued on May 11, 2023, and covered health providers have 90 days after this date to comply in good faith with the HIPAA rules without penalties until August 9, 2023.

BEHAVIORAL/MENTAL HEALTH SERVICES AND TELEHEALTH

From the U.S. Department of Health and Human Services website: Permanent Medicare changes:

- Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) can serve as distant site providers for behavioral/mental health services.
- Patients can receive telehealth services for behavioral and mental healthcare from their homes.
- No geographical restrictions for behavioral/mental telehealth services
- Some services can be delivered using audio-only communication platforms

Reimbursements for Medicare audio-only telehealth services are currently covered through December 31, 2024.

- Audio-Only reimbursed: Behavioral screening, diagnostic evaluation, psychotherapy, psychoanalysis, Group/family psychotherapy, crisis intervention and interactive complexity, psychological evaluation, neuropsychological evaluation, health behavior assessment, health behavior intervention (individual, group, or family with a patient), smoking and tobacco use counseling, obesity counseling, screening/brief intervention/treatment referral, opioid use disorder treatment.
- Not audio-only reimbursed: Aphasia and cognitive assessment, psychological neurobehavioral testing or status exam, speech-language behavioral analysis, developmental screening and testing, adaptive behavior assessment/treatment, therapeutic interventions
- Services not reimbursed: developmental screening and testing, psychophysiological therapy, health behavior intervention for a family without a patient.

HOSPICE CARE AND TELEHEALTH

From the U.S. Department of Health and Human Services website: Telehealth can be used to recertify eligibility for hospice care until December 21, 2024.

RURAL HEALTH AND TELEHEALTH

From the U.S. Department of Health and Human Services website:

- Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are extended until December 31, 2024.
- Rural Emergency Hospitals (REH) were added as eligible Medicare-originating sites for tele-health. Therefore, patients can be at the REH when receiving tele-health services.

From the Center for Connected Health Policy (CCHP) website:

- In Texas, FQHCs originating sites are explicitly allowed for live video, and so are the distant sites. FQHCs are also allowed to collect prospective payment system (PPS) rates for tele-health.
- In Texas, audio-only and store and forward are not explicitly reimbursed.