American Hospital Association™
Advancing Health in America

Fact Sheet: Telehealth Waivers

Background

At the outset of the COVID-19 pandemic, the federal government moved quickly to ensure hospitals and health systems were able to leverage telehealth services to respond efficiently and effectively to a wave of unprecedented need. These actions included the Centers for Medicare & Medicaid Services (CMS) waiving certain regulatory requirements, coupled with Congress providing significant legislative support to ensure hospitals and health systems could rapidly deploy virtual services.

AHA Take

The telehealth flexibilities granted because of the COVID-19 pandemic resulted in significant benefit to patient care; these flexibilities are needed now more than ever to ensure patients' continued access to high-quality care. Currently, there is a patchwork of temporary waivers for telehealth services that, barring further action, will expire at the end of 2024. If this occurs, we risk a telehealth "cliff" that would negatively impact patient access in all communities.

Recognizing both the immediate and potential long-term benefits of telehealth, we urge Congress, CMS, and DEA to take action to make critical telehealth flexibilities permanent.

Statutory Waivers

The Consolidated Appropriations Act (CAA) of 2023 extended many telehealth waivers for two years. Absent congressional action, these waivers will expire on Dec. 31, 2024.

Topic Area	Statute	Waiver
Eligible Geographic and Originating Sites	Pre-COVID-19 pandemic, patients had to be located in a rural area or health provider shortage area and had to be physically located in a specific setting (e.g., physician's office) to participate in a telemedicine visit.	CAA waivers allow for the patient to be in any geographic area (rural or metropolitan) and in any setting, including the beneficiary's home, at the time of a telehealth visit.
Audio-Only Services	Pre-COVID-19 pandemic, all telehealth visits had to be performed using real-time audio-visual telecommunications technology, with limited exceptions.	CAA waivers allow for expansion of audio-only services for evaluation and management (E/M) visits and other specified services.
Eligible Provider Types	Pre-COVID-19 pandemic, there were limitations on the types of providers who could perform telehealth services.	CAA waivers allow for additional providers to perform telehealth services, including physical therapists, occupational therapists, speech-language pathologists and audiologists.
Eligible Distant/ Provider Sites	Pre-COVID-19 pandemic, providers at federally qualified health centers (FQHCs) and rural health clinics (RHCs) could not provide telehealth services to patients in other locations.	CAA waivers allow for FQHCs and RHCs to serve as distant sites for telehealth services.
Tele-Behavioral Health Visits	Pre-COVID-19 pandemic, a patient must have received an in-person evaluation six months before initiating tele-behavioral health treatment and also must have had an in-person visit annually thereafter.	CAA waivers delay implementation of this requirement such that patients do not currently need in-person evaluations.

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Regulatory Waivers

CMS has issued temporary telehealth waivers, which will expire on Dec. 31, 2024, without intervention.

Topic Area	Regulation	Waiver
Virtual Supervision	Pre-COVID-19 pandemic, clinical supervision of telehealth required immediate in-person availability of the supervising practitioner.	During the COVID-19 pandemic, CMS allowed clinical supervision of telehealth diagnostic tests, physicians' services and some hospital outpatient services to be met through virtual presence using real-time audio/video technology.
Virtual Supervision of Residents in Teaching Settings	Pre-COVID-19 pandemic, teaching physicians could meet requirements for supervising key or critical portions of resident services through virtual presence instead of physically in person, but only for services furnished in residency training sites in non-Metropolitan Service Areas (non-MSAs).	During the COVID-19 pandemic, flexibilities for virtual supervision of residents were extended to include MASs, as well as non-MSAs.
Virtual Supervision of Cardiac and Pulmonary Rehab Services	Pre-COVID-19 pandemic, clinical supervision of cardiac rehab, intensive cardiac rehab and pulmonary rehab services required immediate in-person availability of the supervising practitioner.	During the COVID-19 pandemic, CMS allowed clinical supervision of pulmonary and cardiac rehabilitation to be met through virtual presence using real-time audio/video technology.
Reporting of Provider Home Address	Pre-COVID-19 pandemic, CMS required providers who administer telehealth services from their home to report their home address on billing and claims forms.	During the COVID-19 pandemic, CMS waived the home address reporting requirement.
Payment for Virtual Outpatient Therapy Services	Pre-COVID-19 pandemic, CMS restricted the ability to bill for telehealth therapy services.	During the COVID-19 pandemic, CMS allowed institutional providers to provide therapy services, including outpatient physical therapy, occupational therapy and speech language pathology, via telehealth to patients in their homes.
Payment for Audio-Only Services	Pre-COVID-19 pandemic, CMS did not cover or reimburse for audio-only services.	During the COVID-19 pandemic, CMS allowed separate payment for audio-only E/M services.

The Drug Enforcement Administration (DEA) also issued temporary waivers regarding prescribing of controlled substances. Without action, these waivers will expire in 2024.

Topic Area	Regulation	Waiver
In-Person Visit Requirements for Prescribing of Controlled Substances	Pre-COVID-19 pandemic, when prescribing controlled substances, the prescribing practitioner had to conduct one in-person evaluation of the patient prior to prescribing.	During the COVID-19 pandemic, the requirement for an in-person evaluation was waived. This could be waived through a special registration process per statute, but DEA has not published regulation on what this special registration process would entail.

Take Action

Please contact your senators and representatives to urge permanent adoption of statutory telehealth waivers. Urge your delegations to communicate with CMS and DEA to extend regulatory waivers on a permanent basis.

Other Resources

- AHA Letter of Support for Senate CONNECT Health Act of 2023 (S. 2016) | AHA
- AHA's Feedback to the Senate Re: The CONNECT Act | AHA
- AHA Comments on the SUPPORT for Patients and Communities Reauthorization Act | AHA
- AHA Comments on CMS's Physician Fee Schedule Proposed Rule for Calendar Year 2024 | AHA
- AHA Responds to CMS' Requirement to Report Telehealth Provider Home Addresses | AHA
- AHA Comment Letter to DEA on Buprenorphine Telemedicine Prescribing Proposed Rule | AHA
- AHA Comment Letter to DEA on Telemedicine Prescribing of Controlled Substances Proposed Rule | AHA
- AHA Letter to DEA Regarding Request for Release of Special Registration for Telemedicine Regulation | AHA
- AHA shares Part B drug payment, telehealth recommendations with MedPAC | AHA News
- AHA Letter to CMS on Removing Telehealth Provider Home Address Reporting Requirements | AHA
- CMS Urged to Remove Telehealth Provider Home Address Reporting Requirements | AHA