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Health Issue Brief

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Maintaining Flexible Telehealth Policies After COVID-19

COVID-19 heightened the demand for telehealth visits, which led federal agencies, states, and private payers to increase the flexibility they gave to provider practices and payments. Now, many providers want to make these practices permanent, but doing so requires legislative and regulatory action. To help federal policymakers organize their thinking around this complex set of issues, we reviewed the websites of 24 organizations representing providers, payers, patient advocates, and national-level health information technology organizations. We uncovered several key topics for policymakers to consider as they address Medicare telehealth policy through legislation, regulation, or both (Table 1).[1]

Table 1. Stakeholders' viewpoints on retaining Medicare telehealth flexibilities

Stakeholder perspective	Rationale	Supporting stakeholders
Payment policy		
Continue to pay same rate per service (parity) whether using telehealth or visiting in person	It is important to maintain access to telehealth, and audio-conferencing is especially important for some seniors and for remote rural areas with limited broadband access.	AHA, FAH, American Association of Nurse Practitioners, AMGA, AARP, American Medical Association
Other consideration: *Some stakeholders that support continuing expanded access to telehealth do not recommend committing to permanent payment parity now but favor a careful evaluation of relative value by service type. Costs per service may be less; overpaying could lead to unnecessary increases in service volume and cost.* *Taskforce on Telehealth Policy MedPAC public meeting discussion (11/9/20)*		
Change telehealth payment policy for rural health clinics and federally qualified health centers to achieve parity with in-person visits and better fit their unique reimbursement systems	It will increase revenue and improve consistency with their payment systems.	NARHC, National Association of Community Health Centers, National Rural Health Association, NAACOS

Stakeholder perspective	Rationale	Supporting stakeholders
Coverage of telehealth services		
Continue with the expanded list of covered services and allow all Medicare-billing providers to bill for them	Provider groups will continue to press for more services to be added to the list and to keep the expanded eligibility for all Medicare-billing providers. The Centers for Medicare & Medicaid Services has an evidence-based process for adding services, but stakeholders believe a short-term extension is necessary to avoid disruption when the public health emergency ends.	AHA, America's Essential Hospitals, ACHP, American Health Care Association
Other consideration: *The policy question is whether to cover telehealth services unless evidence suggests* ***not*** *to, or* ***only*** *cover them if research finds positive evidence for it. A potential compromise is "coverage with evidence development," in which services are covered while evidence is gathered.* *Medicare Payment Assessment Commission (MedPAC) public meeting discussion (11/9/20)*		
Location of provider and patient		
Allow providers to continue to provide telehealth across state lines	Quality, value, and cost should drive access, not state location. Although licensure requirements are state controlled, Medicare could provide federal funds to states that agree to licensure reciprocity for telehealth.	FAH, AMGA, ACHP, AARP, Taskforce on Telehealth Policy, Families USA
Allow patients to continue to use telehealth from their homes in any geographic location	Some restrictions from before COVID-19 were unnecessary, such as those that held that telehealth cannot originate from patients' homes and that the originating provider must be in certain locations (rural) and of certain types (for example, hospital, physician office).	AHA, FAH, American Academy of Family Physicians, American Academy of Pediatrics, American College of Physicians, AMGA, NAACOS, ACHP, Health Information Management and Systems Society, Primary Care Collaborative, NARHC, American Nurses Association, American Academy of Physician Assistants, American Psychological Association, Taskforce on Telehealth Policy, MedPAC public meeting discussion (11/9/20)

AARP = American Association of Retired Persons; ACHP = Alliance of Community Health Plans; AHA = American Hospital Association; AMGA = American Medical Group Association; FAH = Federation of American Hospitals; NAACOS = National Association of Accountable Care Organizations; NARHC = National Association of Rural Health Clinics.

Table 2. Additional considerations to improve future telehealth policy

Stakeholder perspective	Rationale	Supporting stakeholders
Expand broadband access to facilitate equal access to telehealth	Universal broadband is critical to improve health equity. Some recognize the Federal Communications Commission's Rural Health Care program as helpful but not enough.	AHA, AAFP, AAP, ACP, ACHP, AARP, Primary Care Collaborative, Taskforce on Telehealth Policy, Families USA
Fund additional research to evaluate telehealth because studies to date have tended to be narrow in scope	There is a need for better understanding of telehealth's costs and benefits. The primary care groups specify such research should distinguish between telehealth provided by patients' usual source of care versus other vendors.	AHA, AAFP, AAP, ACP, LeadingAge
Promote integration of Medicare telehealth policy with medical homes	Promote coordinated and continuing care. The primary care provider associations caution that health plans should be prohibited from carving out telehealth services to only cover care from separate vendors, which could undermine patients' continuity of care.	AAFP, AAP, ACP, Primary Care Collaborative, MedPAC public meeting discussion (11/9/20)

AAFP = American Academy of Family Physicians; AAP = American Academy of Pediatrics; AARP = American Association of Retired Persons; ACP = American College of Physicians; ACHP = Alliance of Community Health Plans; AHA = American Hospital Association.

Three other areas could improve the future of telehealth policy: broadband access, additional research, and integration of telehealth with medical homes (Table 2).

The Taskforce on Telehealth Policy, a multistakeholder group of 22 organizations, recently issued a report recommending that policymakers retain some of the current flexibilities, including some but not all those listed above, and add several new ones, including a return to full enforcement of patient privacy protections of the Health Insurance Portability and Accountability Act; a taxonomy of telehealth that includes virtual visit as a site of care, not a type; and initiatives to address gaps in digital literacy for populations (patients and providers) that have struggled to transition to telehealth.[2] MedPAC commissioners discussed retaining Medicare telehealth flexibilities at their November public meeting; although they supported expanding telehealth beyond pre-pandemic levels, they were generally more cautious than most of the stakeholders reviewed because of the potential for overpayment and overuse under fee-for-service payment.

Beyond federal policy, state laws and policy play a key role in how providers implement telehealth, including states' definitions of telehealth, providers' scope of practice and licensure, privacy regulations, and Medicaid payment policy. The Centers for Medicare & Medicaid Services (CMS) released a State Medicaid & CHIP Telehealth Toolkit to help states consider the issues and align their policies to encourage broad adoption of telehealth.[3]

In sum, by quickly enacting temporary regulatory flexibilities as the COVID-19 pandemic hit, CMS allowed telehealth to fill critical health care needs when in-person care was deemed unsafe. Stakeholders, including payers, providers, and patient advocates, agree that many of the old requirements were not necessary, that increased use of telehealth represents progress in health care, and that CMS and Congress should not let all the flexibilities expire when the public health emergency ends. Stakeholders do not agree on all the details, and investments would be needed in order to address the broadband access and research needs. The MedPAC commissioners' discussion suggests a prudent steward of Medicare funds would add some checks to avoid the potential for large cost increases. Nevertheless, CMS and Congress should work together to avoid automatic expiration of these flexibilities so as not to squander a rare moment of broad agreement about a basic set of policies that would give health care providers and patients more tools in their toolbox.

Endnotes

[1] The American Hospital Association analyzed which actions require legislation versus regulation here: https://www.aha.org/system/files/media/file/2020/06/fact-sheet-making-telehealth-flexibilities-permanent-legislation-or-regulation.pdf.

[2] See the Taskforce on Telehealth Policy's recommendations at https://www.ncqa.org/wp-content/uploads/2020/09/20200914_Taskforce_on_Telehealth_Policy_Final_Report.pdf.

[3] The CMS telehealth toolkit is available at https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf.