

THE TOP FIVE THINGS TO KNOW ABOUT MEDICARE TELEHEALTH UNDER THE CARES ACT

Hodgson Russ Healthcare Alert
March 31, 2020

It took a worldwide pandemic to bring telehealth into the 21st century. Today, the novel Coronavirus COVID-19 is disrupting the traditional model of delivering healthcare to the point where face-to-face visits are no longer tenable, or in many settings not even available. The CARES (Coronavirus Aid, Relief, and Economic Security) Act, enacted March 27, 2020, in large part to stimulate the U.S. economy, is banking on telehealth as a solution.

Envisioned initially as a rural healthcare strategy, telehealth is an effective means to care for patients efficiently and effectively, while reducing exposure to infectious disease. To facilitate access to telehealth, the CARES Act makes a number of important changes to Medicare and other policies surrounding its use. Here are the top five things to know:

1. The CARES Act creates a safe harbor to allow a high-deductible health plan paired with a health savings account to cover in full, without a deductible, telehealth and other remote care services for plan years beginning on or before December 31, 2021.
2. The CARES Act expands the Secretary's authority to waive statutory requirements relating to telehealth services, including authority to waive the requirement under the "Telehealth Services During Certain Emergency Periods Act of 2020" (enacted March 6, 2020 as part of the Coronavirus supplemental appropriations package and addressed in our prior Alert) that a "qualified" provider have a prior existing relationship with the patient to provide Medicare telehealth services.
3. The CARES Act allows for a federally qualified health center or a rural health clinic to serve as a "distant site" to furnish telehealth services and to receive Medicare reimbursement during the emergency period.
4. The CARES Act authorizes the Secretary of Health and Human Services to expand the use of telehealth for certain services Medicare previously required to be delivered through face-to-face interactions. Specifically:
 - for patients with end-stage renal disease receiving home dialysis, the Act temporarily authorizes the Secretary to waive the face-to-face requirement as a

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prerequisite to establish eligibility for assessments via telehealth during the emergency period;

- for hospice patients, the Act allows hospice physicians and nurse practitioners to use telehealth to meet the face-to-face encounter requirement to recertify continued hospice eligibility; and
- for patients receiving home health services, the Act directs the Secretary to consider ways, through clarifying guidance and outreach, to encourage the use of telecommunications systems (including remote patient monitoring) to deliver home health services during the emergency period.

5. The CARES Act expands the list of licensed practitioners who can review, certify and recertify a plan of care for Medicare home health services to include not only physicians, but also nurse practitioners, clinical nurse specialists, and physician assistants working in accordance with state law.

With the CARES Act, and the earlier Coronavirus supplemental appropriations package, Congress is sending a clear message that telehealth is vital to the effective delivery of healthcare during a crisis. As providers and patients adapt, the use of telehealth will increasingly gain acceptance. Inevitably, this will transform the delivery of healthcare long after the crisis is over. The future of telehealth is now.

For more information on implementing a telehealth program, or for questions regarding this alert, please contact Jane Bello Burke (518.433.2404).

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