

Telehealth Policy & Addiction Medicine



ASAM American Society of
Addiction Medicine

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Federal Policy

MEDICARE

Medicare is a federal health insurance program for:



People 65
or older



Some younger people
with disabilities,



People with End-
Stage Renal Disease.

Part A covers hospital insurance, Part B covers physician services, and Part D covers prescription drugs. Patients may have original Medicare or Medicare Advantage. Medicare policy on technology to provide services can be broken into two buckets: **(1)** telehealth and **(2)** communications-based technology.¹

In the case of telehealth, most established policy is on reimbursement and covers four main areas:



Service: Medicare provides a specific list of services it covers that is updated annually by the Medicare Physician Fee Schedule.



Location: Where patients and providers must be located. Dictated by statute.



Provider: What providers can provide telehealth services is also dictated by statute.



Modality: Telehealth services must be offered through a “telecommunications system,” as defined in federal regulations.

SUPPORT Act of 2018 instituted some Medicare policy changes, which included:

- Medicare coverage of Opioid Treatment Programs (OTPs); and
- Removal of the geographic site requirement and addition of a patient’s home as an originating site for patients with SUD for the purposes of telehealth services for the treatment of SUD or co-occurring mental health conditions.

RYAN-HAIGHT ACT



Controlled medications may not be provided by means of the internet (including telemedicine technologies) without a valid prescription.²



An “in-person medical evaluation” in the physical presence of the prescribing clinician for the prescription to be considered valid.



Seven “practice of telemedicine” exceptions

¹ In 2018, CMS issued a final rule that created a new category of services to pay for services delivered using communications technology that is not considered telehealth. Section 1834 (m) of the Social Security Act defines a discrete set of services as “telehealth.” Payment for communications-based technologies will be for services that are used to ascertain whether a patient needs an office visit, assess patient-submitted information, perform interprofessional consultations, or allow a patient to communicate with their physician through an online portal. These aforementioned services are not considered telehealth, are paid under the regular physician fee schedule, and do not have the limitations of telehealth services described in statute/regulations.

² 21 CFR 1306.09(a)

MEDICAID

Medicaid is a health insurance program that is jointly funded by the federal and state governments. The program is administered by state governments and must cover services for certain adults with low-incomes, children, pregnant women, elderly, and people with disabilities. States may cover additional services but must cover the minimum set of federally-required services.

Medicaid reimbursement of telehealth services:

- Federal government allows great flexibility in how states may formulate their Medicaid telehealth policies. See [Medicaid telehealth toolkit](#) and additional policy guidance [here](#) and [here](#).
- States are not required to submit a state plan amendment (SPA) if its Medicaid program reimburses for telehealth services similarly to in-person services, but must submit a SPA if not.

COVID-19 Federal Regulatory Flexibilities

Summary of federal actions taken since the beginning of the pandemic to promote greater flexibility and expand access to medical services, including addiction treatment



Temporary guidance that allows physicians to use commonly used applications such as FaceTime, Facebook Messenger, Google Hangouts, Zoom, and Skype – for telehealth services



DEA action to allow practitioners to initiate the prescribing of controlled medications via audio-visual telehealth evaluation (and audio-only for buprenorphine for OUD) in certain circumstances. Further guidance from the DEA can be found [here](#) and [here](#).



Temporary waivers to make it easier for people enrolled in Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) to receive medical care through telehealth services during the COVID-19 PHE.



SAMHSA guidance on:
[Patient confidentiality during the time of COVID-19](#)
[Provision of methadone and buprenorphine for the treatment of OUD during the COVID-19 PHE.](#)

Extending flexibility for [take-home doses](#) at OTPs for one year after the conclusion of the PHE.

CMS 2022 Medicare Physician Fee Schedule Final Rule

On November 2, 2021, CMS issued a [Final Rule](#) which revises CY 2022 payment policies under the Medicare Physician Fee Schedule (PFS). Highlights from that rule are as follows:

1. Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) can serve as distant sites and offer telehealth services to patients in their homes for the duration of the COVID-19 PHE.
2. Expanded the list of [Medicare-covered](#) telehealth services through calendar year 2023 to include services to treat SUD in outpatient settings: **Office visit evaluation and management codes (99202-99215), Office-based treatment for substance use disorder (G-codes G2086-G2087),** and counseling and therapy portions of the OTP bundle (See [here](#) for list of codes)
3. Allowed certain services to be conducted via audio-only technology, including office-based treatment for substance use disorder (G-codes G2086-G2087), and OTP codes G2067-G2075
4. CMS amended the current regulatory requirement for interactive telecommunications services to include audio-only communication technology when used for telehealth services for the diagnosis, evaluation, or treatment of mental health disorders furnished to established patients in their homes.
CMS clarified that SUD is included in the revised definition above such that practitioners can use audio-only communication technology to provide treatment for SUD
5. CMS will limit the use of an audio-only interactive telecommunications system to mental health services furnished by practitioners who have the capability to furnish two-way, audio/video communications, but where the beneficiary is not capable of using, or does not consent to, the use of two-way, audio/video technology; in person requirements may apply.

Recent Legislative Changes

- [Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020](#): temporarily waives restrictions on Medicare provider ability to offer telehealth services to beneficiaries regardless of whether the beneficiary is in a rural community.³
- [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#): \$185 million to support rural critical access hospitals, rural tribal health and telehealth programs, and poison control centers.
- [Consolidated Appropriations Act, 2021 \(CAA\)](#): Medicare patients can receive telehealth services for behavioral health care in their homes in any part of the country. This [fact sheet](#) from CCHP provides additional information.

State Policy

Telehealth is also partly governed by state statutes and regulations. Practitioners must still abide by applicable state statutes and regulations. The onslaught of the COVID-19 pandemic forced many states to consider changes to their telehealth laws and regulations.

According to the [Center for Connected Health Policy \(CCHP\)](#), in 2021, 47 states passed 201 bills pertaining to telehealth. That is up from 104 bills in 36 states in 2020. Most of these bills focused on telehealth regulatory requirements, cross-state licensing, and private payer reimbursement. A complete rundown of state actions on telehealth can be found [here](#) and [here](#). Examples of states that have enacted legislation in 2021 to expand coverage and access to treatment via telehealth can be found in the full ASAM telehealth brief.

ASAM Federal & State Chapter Advocacy

A full list of ASAM's federal and state chapter actions can be found in the full telehealth brief.

Billing and Coding for Telehealth Services

CMS provides a number of resources for guidance on properly coding and billing for telehealth services. Additional information can be found [here](#).

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³ As of July 1, 2019, the [SUPPORT Act](#) eliminated the geographic limitations for telehealth services furnished to patients diagnosed with SUD or co-occurring mental health disorders when the telehealth service is used to treat the SUD or co-occurring mental health disorder. The SUPPORT Act also removed originating site restrictions. *Note: A Medicare provider may need to use an evaluation and management (E/M) code for the initial SUD diagnosis, subject to Medicare's otherwise applicable statutory restrictions.* Click [here](#) to learn more.