

Illustrative Telehealth Expansions during the COVID-19 Pandemic

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The University of Oklahoma College of Law
Indiana Health Law Review Virtual Symposium

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Public Health Emergency

Public Health and Medical Emergency Support for a Nation Prepared



PHE Home > Emergency > News & Multimedia > Public Health Actions > PHE > Determination that a Public Health Emergency Exists

Determination that a Public Health Emergency Exists

As a result of confirmed cases of 2019 Novel Coronavirus (2019-nCoV), on this date and after consultation with public health officials as necessary, I, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority vested in me under section 319 of the Public Health Service Act, do hereby determine that a public health emergency exists and has existed since January 27, 2020, nationwide.

01/31/2020

Date

/s/

Alex M. Azar II

More Emergency and Response Information

- ▶ [Declarations of a Public Health Emergency](#)
- ▶ [Public Health Emergency Determinations to Support an Emergency Use Authorization](#)
- ▶ [Section 1135 Waivers](#)
- ▶ [Emergency Use Authorizations](#)

This page last reviewed: January 31, 2020



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HHS's COVID-Related PHE Determinations and Renewals

Public Health Emergency Declarations

The Secretary of the Department of Health and Human Services (HHS) may, under section 319 of the Public Health Service (PHS) Act determine that: a) a disease or disorder presents a public health emergency; or b) that a public health emergency, including significant outbreaks of infectious disease or bioterrorist attacks, otherwise exists. [Learn More >>](#)

- October 15, 2021 (most recent renewal)
- July 19, 2021 (renewal)
- April 15, 2021 (renewal)
- January 7, 2021 (renewal)
- October 2, 2020 (renewal)
- July 23, 2020 (renewal)
- April 21, 2020 (renewal)
- January 31, 2020 (initial determination)

Title	Disaster Type	State/Territory	Signed Date
Renewal of the Determination that a Public Health Emergency Exists Nationwide as the Result of the Continued Consequences of Coronavirus Disease 2019 (COVID-19) Pandemic	COVID-19	National	October 15, 2021
Renewal of the Determination that a Public Health Emergency Exists Nationwide as the Result of the Continued Consequences of the Opioid Crisis	Opioid Crisis	National	October 6, 2021
Determination That A Public Health Emergency Exists as the Result of the Consequences of the Remnants of Hurricane Ida in New York and New Jersey	Hurricane	New York and New Jersey	September 3, 2021
Determination That A Public Health Emergency Exists as the Result of the Consequences of Hurricane Ida in Louisiana and Mississippi	Hurricane	Louisiana and Mississippi	August 30, 2021
Renewal of the Determination that a Public Health Emergency Exists Nationwide as the Result of the Continued Consequences of Coronavirus Disease 2019 (COVID-19) Pandemic	COVID-19	National	July 19, 2021
Renewal of the Determination that a Public Health Emergency Exists Nationwide as the Result of the Continued Consequences of the Opioid Crisis	Opioid Crisis	National	July 7, 2021
Renewal of the Determination that a Public Health Emergency Exists Nationwide as the Result of the Continued Consequences of Coronavirus Disease 2019 (COVID-19) Pandemic	COVID-19	National	April 15, 2021



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Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus (COVID-19) Outbreak

Issued on: March 13, 2020



BRIEFING ROOM

Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic

FEBRUARY 24, 2021 • PRESIDENTIAL ACTIONS

NOTICE

CONTINUATION OF THE NATIONAL EMERGENCY CONCERNING THE CORONAVIRUS DISEASE 2019 (COVID-19) PANDEMIC

On March 13, 2020, by Proclamation 9994, the President declared a national emergency concerning the coronavirus disease 2019 (COVID-19) pandemic. The COVID-19 pandemic continues to cause significant risk to the public health and safety of the Nation.

For this reason, the national emergency declared on March 13, 2020, and beginning March 1, 2020, must continue in effect beyond March 1, 2021. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency declared in Proclamation 9994 concerning the COVID-19 pandemic.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
February 24, 2021.



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J. Kevin Stitt
Office of the Governor
State of Oklahoma

EXECUTIVE ORDER EXECUTIVE ORDER

On March 15, 2020, the eighth case of a r confirmed in the State of Oklahoma. As noted in a pre Centers for Disease Control and Prevention has ider posed by COVID-19 as “high” both globally and in tl 14, 2020, the President of the United States declared a States as a result of the national spread of COVID-19

While impact in Oklahoma has continued t increasingly important for Oklahoma to be ready fo consultation with numerous health experts within m provide for the rendering of mutual assistance amon the State and to cooperate with the Federal govermer functions during the continuance of the State emerg Oklahoma Emergency Management Act of 2003.

Therefore, I, J. Kevin Stitt, Governor of the St vested in me by Section 2 of Article VI of the Okl order the following:

1. There is hereby declared an emergen COVID-19 to the people of this State a The counties included in this declarati
2. The State Emergency Operations Plan State departments and agencies avail committed to the reasonable extent n COVID-19 and to protect the health an be coordinated by the Director of the l with comparable functions of the feder of the State.
3. State agencies, in responding to tl emergency acquisitions to fulfill the pu to limitations or bidding requirements

All 77 Oklahoma C

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Stitt says he won't declare public health emergency as COVID cases, hospitalizations rise again in Oklahoma

Randy Krehbiel Jul 24, 2021 Updated Aug 30, 2021 1

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More than 5,000 new cases reported in Oklahoma last week; 413 hospitalized

Delta variant's surge in Oklahoma causes medical professionals to worry about children's health, hospital capacity

'Flood of red': Delta variant behind rising hospitalizations in northeastern Oklahoma, prompting experts' pleas to get vaccinated



Gov. Kevin Stitt is trusting Oklahomans to make their own decisions as COVID-19 cases again rise sharply in the state, he said Friday.

“Not planning on declaring an emergency,” Stitt said during a press conference to announce **the appointment of Tulsa John O'Connor** as the state’s attorney general.



1 BEST EYE DROPS

2 SINUS HEADACHE TREATMENT

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Illustrative Telehealth Expansions during the COVID-19 Pandemic

1. Telemedicine payment (reimbursement) parity
2. Telemedicine cost sharing waivers
3. Originating sites
4. Telecommunication systems
5. In-person medical examination requirements
6. Services eligible for provision through telehealth
7. Providers eligible to deliver services through telehealth
8. In-state licensure requirements
9. Privacy and security



1. Telemedicine Payment Parity



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Press release

Trump Administration Issues Second Round of Sweeping Changes to Support U.S. Healthcare System During COVID-19 Pandemic

Apr 30, 2020 | Hospitals, Policy, Telehealth

- CMS previously announced that Medicare would pay for certain services conducted by audio-only telephone between beneficiaries and their doctors and other clinicians. Now, CMS is broadening that list to include many behavioral health and patient education services. CMS is also increasing payments for these telephone visits to match payments for similar office and outpatient visits. This would increase payments for these services from a range of about \$14-\$41 to about \$46-\$110. The payments are retroactive to March 1, 2020.



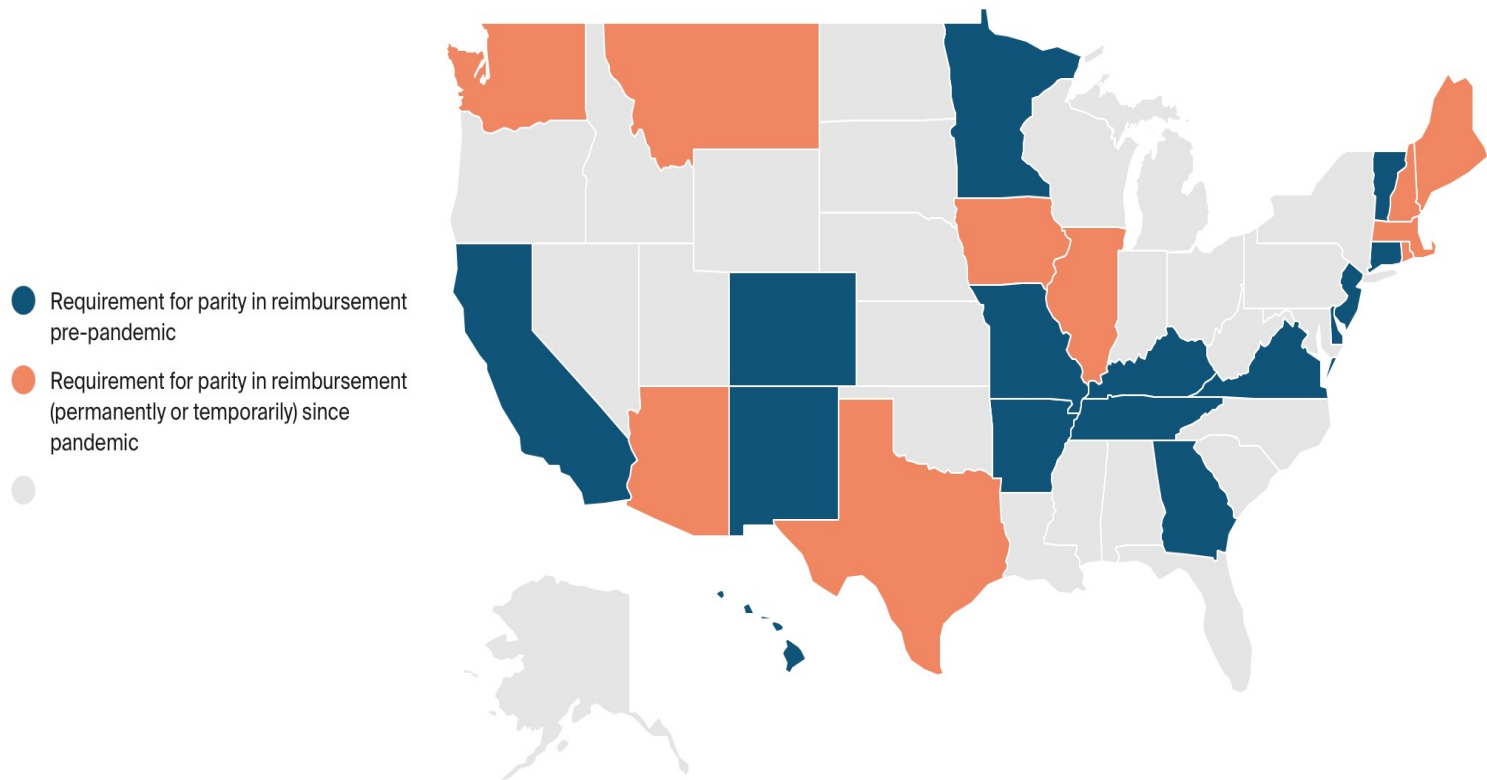
Coronavirus Update

Department of Banking and Insurance is directing carriers in the individual, small and large group markets to:

- Review their telemedicine and telehealth networks to ensure adequacy, given the apparent increased demand, as well as grant any requested in-plan exceptions for individuals to access out-of-network telehealth providers if network telehealth providers are not available, including, but not limited to, mental health and behavioral health providers, physical therapists, occupational therapists, and speech therapists, and any other health providers capable and authorized to provide telehealth or telemedicine services pursuant to State law or other State-issued guidance.
- Cover, without cost-sharing any healthcare services or supplies delivered or obtained via telemedicine or telehealth.
- Encourage providers to utilize telemedicine or telehealth services to minimize exposure of provider staff and other patients to those who may have the COVID-19 virus.
- Ensure that the rates of payment to in-network providers for services delivered via telemedicine or telehealth are not lower than the rates of payment established by the carrier for services delivered via traditional (i.e., in-person) methods.
- Notify providers of any instructions that are necessary to facilitate billing for telehealth services.
- Allow for telephonic telehealth services and flexibility in the specific technology used to deliver the services.
- Eliminate (may not impose) prior authorization requirements on medically necessary treatment that is delivered via telemedicine or telehealth.
- Disseminate information on their website, or other reasonable means, to notify individuals of these updates.



States Requiring Insurers Have Parity in Provider Reimbursement for Telemedicine Services, Pre- and Post-Pandemic (as of March 15, 2021)





What can we help you find?



Resources for physicians, administrators and healthcare professionals

Reimbursement: During this expansion time frame, we will temporarily reimburse providers for telehealth services at their contracted rate for in-person services. For **PT/OT/ST, chiropractic therapy, home health and hospice** provider visits, interactive audio-video technology must be used. UnitedHealthcare will reimburse telehealth services that are:



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2. Telemedicine Cost Sharing Waivers



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Newsroom | News Releases



Blue Cross and Blue Shield of Oklahoma Temporarily Eliminating Telemedicine Copays

Additional service includes securing early medication refills during COVID-19 outbreak

March 19, 2020

TULSA, Oklahoma – [Blue Cross and Blue Shield of Oklahoma](#) (BCBSOK), today announced it will temporarily lift cost-sharing for medically necessary medical and behavioral health services delivered via telemedicine in response to the COVID-19 public health emergency.

This applies to all members who are insured by BCBSOK and includes telemedicine services retroactive to March 15, 2020.

“First and foremost, we want to make sure our members get the care they need,” said Joseph Cunningham, M.D., plan president for Blue Cross and Blue Shield of Oklahoma. “Waiving in-network copays for telemedicine will allow our members to consult a qualified health care provider while avoiding unnecessary visits to clinics, hospitals and emergency rooms.”

Benefits may be different for members covered under certain employer self-funded health plans depending on the decisions their employer makes about telemedicine.

Between now and April 30, BCBSOK will continue to consider whether to extend the timeframe of this temporary cost-sharing change.

Media Contact

Lauren Cusick
918-551-2002

Lauren_Cusick@bcbsok.com



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3. Originating Sites



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42 C.F.R. § 410.78(b)(3)

(3) The [services](#) are furnished to a [beneficiary](#) at an originating site, which is one of the following:

- (i)** The office of a [physician](#) or [practitioner](#).
- (ii)** A critical access [hospital](#) (as described in section 1861(mm)(1) of the Act).
- (iii)** A rural health clinic (as described in section 1861(aa)(2) of the Act).
- (iv)** A Federally qualified health center (as defined in section 1861(aa)(4) of the Act).
- (v)** A [hospital](#) (as defined in section 1861(e) of the Act).
- (vi)** A [hospital](#)-based or critical access [hospital](#)-based renal dialysis center (including satellites).
- (vii)** A skilled nursing facility (as defined in section 1819(a) of the Act).
- (viii)** A [community mental health center](#) (as defined in section 1861(ff)(3)(B) of the Act).
- (ix)** A [renal dialysis facility](#) (only for purposes of the home dialysis monthly [ESRD](#)-related clinical assessment in section 1881(b)(3)(B) of the Act);
- (x)** The home of an individual (only for purposes of the home dialysis [ESRD](#)-related clinical assessment in section 1881(b)(3)(B) of the Act).
- (xi)** A mobile stroke unit (only for purposes of diagnosis, evaluation, or treatment of symptoms of an acute stroke provided in accordance with section 1834(m)(6) of the Act).
- (xii)** The home of an individual (only for purposes of treatment of a substance use disorder or a co-occurring mental health disorder, furnished on or after July 1, 2019, to an individual with a substance use disorder diagnosis).

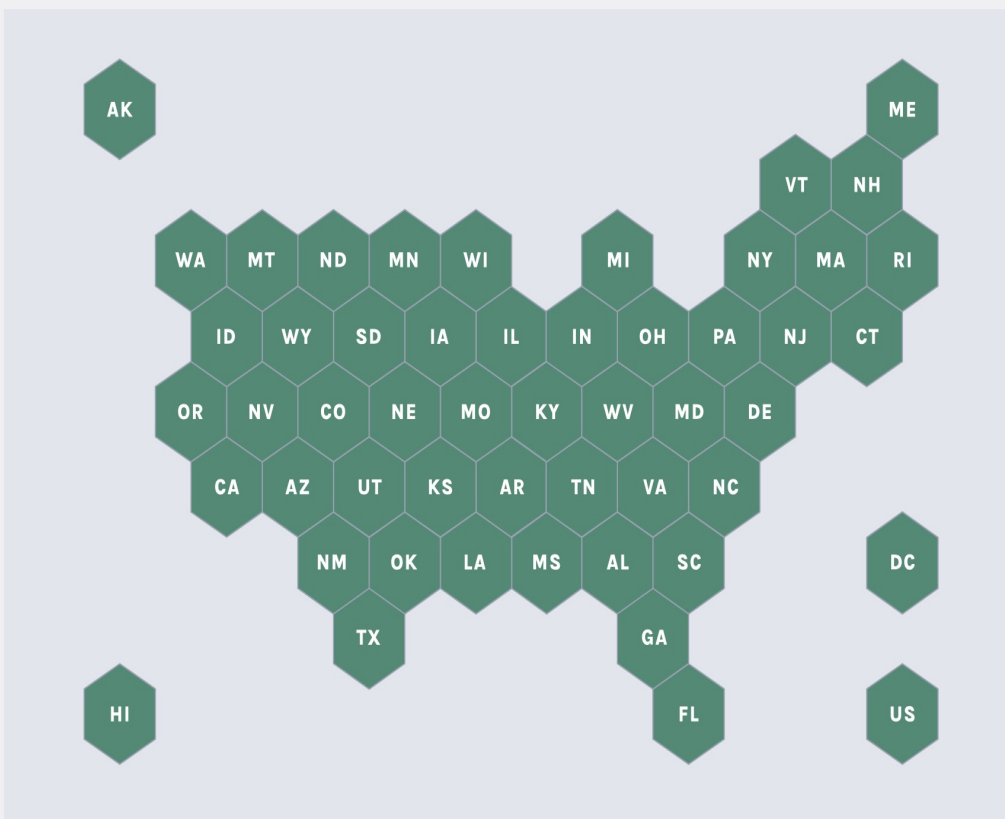
(4) Except as provided in [paragraph \(b\)\(4\)\(iv\)](#) of this section, originating sites must be:

- (i)** Located in a [health professional shortage area](#) (as defined under section 332(a)(1)(A) of the [Public Health Service Act](#) (42 U.S.C. 254e(a)(1)(A))) that is either outside of a Metropolitan Statistical [Area](#) (MSA) as of December 31st of the preceding calendar year or within a rural census tract of an MSA as determined by the Office of Rural Health Policy of the Health Resources and Services Administration as of December 31st of the preceding calendar year, or
- (ii)** Located in a county that is not included in a Metropolitan Statistical [Area](#) as defined in section 1886(d)(2)(D) of the [Act](#) as of December 31st of the preceding year, or
- (iii)** An entity [participating](#) in a Federal telemedicine demonstration project that has been approved by, or receive funding from, the [Secretary](#) as of December 31, 2000, regardless of its geographic location.

COVID-19

Originating Site

Originating site refers to the physical location of the patient. During the COVID-19 public health emergency (PHE), Medicare and many Medicaid programs expanded the types of originating sites that a patient could be at while receiving services via telehealth, to include the home and other locations. These policies are temporary and most will expire at the end of the PHE.



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Coronavirus Update

Departmental Actions

The Department of Human Services, Division of Medical Assistance and Health Services is directing the Medicaid Managed Care Organizations and for the Medicaid Fee for Service Program that MCOs and Medicaid/NJ FamilyCare will:

- Provide reimbursement to providers for telehealth, including tele-mental health services, in the same manner as for face-to-face services as long as the services are performed to the same standard of care as if the services were rendered in-person.
- Waive site of service requirements for telehealth, allowing NJ licensed clinicians (such as physicians, nurse practitioners, clinical psychologists, and licensed clinical social workers) to provide telehealth from any location and allowing individuals to receive services via telehealth from any location.
- Permit use of alternative technologies for telehealth such as telephonic and video technology commonly available on smart phones and other devices.



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What can we help you find?



Resources for physicians, administrators and healthcare professionals

Originating Site Expansion: For all UnitedHealthcare Individual and fully insured Group Market health plans, any originating site or audio-video requirements under UnitedHealthcare reimbursement policies are temporarily waived for certain visits, as described below. This means that telehealth services provided by a live interactive audio-video or audio-only communication system can be billed for members at home or another location. For:



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4. Telecommunication Systems



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42 C.F.R. § 410.78(a)(3)

(3) *Interactive telecommunications system* means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of an interactive telecommunications system.





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- Permit use of alternative technologies for telehealth such as telephonic and video technology commonly available on smart phones and other devices.



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 For Blue Cross NC's latest information on the **COVID-19 (coronavirus)**, please visit bluecrossnc.com/coronavirus.

[Home](#) > [Providers](#) > [Medical News and Information](#) > [News and Information](#) > COVID-19: Additional Details About Relief Efforts

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COVID-19: Additional Details About Relief Efforts



Publication Date: 2020-03-26

- For providers or members who don't have access to secure video systems, **telephone (audio-only)** visits can be used for the virtual visit. Please use **both Telehealth as Place of Service and CR (catastrophe/disaster-related) modifier for audio-only visits.**



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5. In-Person Medical Examination Requirements



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U. S. Department of Justice
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, Virginia 22152

www.dea.gov

DEA Qualifying Practitioners
DEA Qualifying Other Practitioners

Dear Registrant:

In light of the nationwide public health emergency declared by the Secretary of Health and Human Services (HHS) on January 31, 2020, as a result of the Coronavirus Disease 2019 (COVID-19), the Drug Enforcement Administration (DEA) is exercising its authorities to provide flexibility in the prescribing and dispensing of controlled substances to ensure necessary patient therapies remain accessible. As part of this effort, DEA has partnered with the Substance Abuse and Mental Health Services Administration (SAMHSA) to ensure authorized practitioners may admit and treat new patients with opioid use disorder (OUD) during the public health emergency. DEA has already announced that practitioners may prescribe controlled substances to patients using telemedicine without first conducting an in-person evaluation during this public health emergency under 21

U.S.C. 802(54)(D).¹ Today, DEA notes that practitioners have further flexibility during the nationwide public health emergency to prescribe buprenorphine to new and existing patients with OUD via telephone by otherwise authorized practitioners without requiring such practitioners to first conduct an examination of the patient in person or via telemedicine.² This additional flexibility under which authorized practitioners may prescribe buprenorphine to new patients on the basis of a telephone evaluation is in effect from March 31, 2020, until the public health emergency declared by the Secretary ends, unless DEA specifies an earlier date.



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6. Services Eligible for Provision through Telehealth



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Telehealth

[Submitting a Request](#)[Request for Addition](#)[CMS Criteria for Submitted Requests](#)[Review](#)[Deletion of Services](#)[Changes](#)[Adding Telehealth Services](#)[List of Telehealth Services](#)

List of Telehealth Services

List of services payable under the Medicare Physician Fee Schedule when furnished via telehealth.

[List of Telehealth Services for Calendar Year 2021 \(ZIP\)](#) - Updated 08/17/2021

Page Last Modified: 08/17/2021 02:19 PM

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A	B	C	D	E
		LIST OF MEDICARE TELEHEALTH SERVICES effective January 1, 2021-updated August 12, 2021		
Code	Short Descriptor	Status	Can Audio-only Interaction Meet the Requirements?	Medicare Payment Limitations
77427	Radiation tx management x5	Temporary Addition for the PHE for the COVID-19 Pandemic		
90785	Psytx complex interactive		Yes	
90791	Psych diagnostic evaluation		Yes	
90792	Psych diag eval w/med srvc		Yes	
90832	Psytx w pt 30 minutes		Yes	
90833	Psytx w pt w e/m 30 min		Yes	
90834	Psytx w pt 45 minutes		Yes	
90836	Psytx w pt w e/m 45 min		Yes	
90837	Psytx w pt 60 minutes		Yes	
90838	Psytx w pt w e/m 60 min		Yes	
90839	Psytx crisis initial 60 min		Yes	
90840	Psytx crisis ea addl 30 min		Yes	
90845	Psychoanalysis		Yes	
90846	Family psytx w/o pt 50 min		Yes	
90847	Family psytx w/pt 50 min		Yes	
90853	Group psychotherapy		Yes	
90875	Psychophysiological therapy	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20		Non-covered service
90951	Esrd serv 4 visits p mo <2yr			
90952	Esrd serv 2-3 vsts p mo <2yr			
90953	Esrd serv 1 visit p mo <2yrs	Available up Through the Year in Which the PHE Ends		
90954	Esrd serv 4 vsts p mo 2-11			
90955	Esrd srv 2-3 vsts p mo 2-11			
90956	Esrd srv 1 visit p mo 2-11	Available up Through the Year in Which the PHE Ends		
90957	Esrd srv 4 vsts p mo 12-19			
90958	Esrd srv 2-3 vsts p mo 12-19			
90959	Esrd serv 1 vst p mo 12-19	Available up Through the Year in Which the PHE Ends		
90960	Esrd srv 4 visits p mo 20+			
90961	Esrd srv 2-3 vsts p mo 20+			
90962	Esrd serv 1 visit p mo 20+	Available up Through the Year in Which the PHE Ends		
90963	Esrd home pt serv p mo <2yrs			
90964	Esrd home pt serv p mo 2-11			
90965	Esrd home pt serv p mo 12-19			
90966	Esrd home pt serv p mo 20+			
90967	Esrd svc pr day pt <2			
90968	Esrd svc pr day pt 2-11			
90969	Esrd svc pr day pt 12-19			
90970	Esrd svc pr day pt 20+			
92002	Eye exam new patient	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20		
92004	Eye exam new patient	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20		
92012	Eye exam establish patient	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20		
92014	Eye exam&tx estab pt 1/>vst	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20		
92507	Speech/hearing therapy	Available up Through the Year in Which the PHE Ends	Yes	
92508	Speech/hearing therapy	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes	
92521	Evaluation of speech fluency	Available up Through the Year in Which the PHE Ends	Yes	
92522	Evaluate speech production	Available up Through the Year in Which the PHE Ends	Yes	
92523	Speech sound lang comprehen	Available up Through the Year in Which the PHE Ends	Yes	

Expanded use of telehealth and telephonic services during COVID-19 National/State Emergency for COVID-19

The Oklahoma Health Care Authority is allowing expanded use of telehealth beginning March 16, 2020 through the end of the declared public health emergency for services that can be safely provided via secure telehealth communication devices for all SoonerCare members. OHCA will assess the status of the COVID-19 situation toward the end of the public health emergency to determine if the expansion should be continued.

Providers must continue to meet the requirements of OAC 317:30-3-27 in delivering telehealth services and must submit claims using the GT modifier. Additionally, the use of telephonic services (not face-to-face) may be utilized in instances when the SoonerCare member does not have access to telehealth equipment, the service is necessary to the health and safety of the member, and the service can safely and effectively be provided over the telephone.

For providers who bill E&M codes, the codes for telephonic services are 99441, 99442 and 99443. Other healthcare professionals can bill using 98966, 98967 and 98968.

Providers are encouraged to create internal policies and procedures regarding the use of telehealth during a national/state emergency so that all staff understand its appropriate use during this time. Documentation in the client's record should either reference the provider's internal policy or otherwise indicate why telehealth was utilized if the service was not reimbursed via telehealth prior to March 16, 2020.

If you have any questions, please call the OHCA provider helpline at 800-522-0114. Thank you for your support of SoonerCare.

For information and dates related to the current public health emergency, please visit [CMS.gov](https://www.cms.gov).

7. Providers Eligible to Deliver Services through Telehealth

Physicians and Other Clinicians: CMS Flexibilities to Fight COVID-19

*** Indicates items added or revised in the most recent update*

the types of health care professionals that can furnish distant site telehealth services to include all those that are eligible to bill Medicare for their professional services. As a result, a broader range of practitioners, such as physical therapists, occupational therapists, and speech language pathologists can use telehealth to provide many Medicare services.



**BlueCross BlueShield
of Illinois**

COVID-19 Preparedness Answers to Frequently Asked Questions (FAQs) from Providers (Updated September 2020)

What types of providers can render services via telehealth?

The Governor's Order defines available telehealth services as those services that include the provision of health care, psychiatry, mental health treatment, substance use disorder treatment, and related services. Telehealth services may be rendered by providers to deliver any medically necessary covered services and treatments to fully-insured members consistent with the terms of each member's benefits. This

means that providers may include, but are not necessarily limited to, physicians, physician assistants, optometrists, advanced practice registered nurses, and clinical psychologists licensed in Illinois, prescribing psychologists licensed in Illinois, dentists, occupational therapists, pharmacists, physical therapists, clinical social workers, speech-language pathologists, audiologists, hearing instrument dispensers, and mental health professionals and clinicians authorized by Illinois law to provide mental health services. In addition, while not required by law, or the Governor's Executive Order, BCBSIL also recognizes licensed dietitians and nutritionists as providers of telehealth services and will cover such services for fully-insured members so long as benefits are available in accordance with the terms of the member's health benefit plan. If a dietitian or nutritionist is in-network with BCBSIL, and coverage for such services is available under the terms of a fully-insured member's benefits, cost-sharing will be waived **through Dec. 31, 2020** (previously Sept. 30, 2020).



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8. In-State Licensure Requirements



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Physicians and Other Clinicians: CMS Flexibilities to Fight COVID-19

*** Indicates items added or revised in the most recent update*

- *Practitioner Locations:* Temporarily waive Medicare and Medicaid's requirements that physicians and non-physician practitioners be licensed in the state where they are providing services. State requirements will still apply. CMS waives the Medicare

Arizona

until the termination or the declared public health emergency... includes all electronic means of delivering telehealth including telephone and video calls; Ensures that a patient's home is considered an approved location to receive telemedicine services; ... And prohibits a regulatory board from requiring a medical professional who is authorized to write prescriptions to conduct an in-person examination of a patient prior to the issuance of a prescription.

- [5/5/21 Update] – On June 5, [AZ HB 2454](#) was signed, **which permanently allows health care providers licensed in another jurisdiction**, in good standing and not subject to current or past disciplinary actions; **to practice telemedicine with Arizona patients**. Licensees must register with the act in compliance with Arizona laws including scope of practice and liability insurance, among others. The venue for any violation is that of the resident.

[AZ HB 2454](#)

[Temporary MD License](#)

[Temporary DO License](#)



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9. Privacy and Security



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HIPAA for Professionals

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Regulatory Initiatives

Privacy



Security



Breach Notification



Compliance & Enforcement



Special Topics



Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency

We are empowering medical providers to serve patients wherever they are during this national public health emergency. We are especially concerned about reaching those most at risk, including older persons and persons with disabilities. – Roger Severino, OCR Director.

The Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) is responsible for enforcing certain regulations issued under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act, to protect the privacy and security of protected health information, namely the HIPAA Privacy, Security and Breach Notification Rules (the HIPAA Rules).





FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency

1. What is telehealth?

The Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) defines telehealth as the use of electronic information and telecommunications technologies to support and promote long-distance clinical health care, patient and professional health-related education, and public health and health administration. Technologies include videoconferencing, the internet, store-and-forward imaging, streaming media, and landline and wireless communications.

Telehealth services may be provided, for example, through audio, text messaging, or video communication technology, including videoconferencing software. For purposes of reimbursement, certain payors, including Medicare and Medicaid, may impose restrictions on the types of technologies that can be used.¹ Those restrictions do not limit the scope of the HIPAA Notification of Enforcement Discretion regarding COVID-19 and remote telehealth communications.

2. What entities are included and excluded under the Notification of Enforcement Discretion regarding COVID-19 and remote telehealth communications?

The Notification of Enforcement Discretion issued by the HHS Office for Civil Rights (OCR) applies to all health care providers that are covered by HIPAA and provide telehealth services during the emergency. A health insurance

¹ Medicare pays for many different services that involve use of these types of communications technologies. A fact sheet regarding Medicare payment and coverage is available at: <https://www.cms.gov/files/document/03052020-medicare-covid-19-fact-sheet.pdf>. Telehealth services paid by Medicare are the services defined in section 1834(m) of the Social Security Act that would otherwise be furnished in person but are instead furnished via real-time, interactive communication technology.

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FOR IMMEDIATE RELEASE
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OCR Announces Notification of Enforcement Discretion for Use of Online or Web-Based Scheduling Applications for the Scheduling of COVID-19 Vaccination Appointments

Today, the Office for Civil Rights (OCR) at the U.S Department of Health and Human Services (HHS) announced that it will exercise its enforcement discretion and will not impose penalties for violations of the HIPAA Rules on covered health care providers or their business associates in connection with the good faith use of online or web-based scheduling applications (collectively, "WBSAs") for the scheduling of individual appointments for COVID-19 vaccinations during the COVID-19 nationwide public health emergency. This exercise of enforcement discretion is effective immediately, but has retroactive effect to December 11, 2020.

The Notification explains that the exercise of enforcement discretion applies to covered health care providers and their business associates, including WBSA vendors (as WBSA is defined in the Notification), when the WBSA is used in good faith and only for the limited purpose of scheduling individual appointments for COVID-19 vaccinations during the COVID-19 nationwide public health emergency. Although OCR is exercising enforcement discretion, the Notification encourages the use of reasonable safeguards to protect the privacy and security of individuals' protected health information (PHI), such as using only the minimum necessary PHI, encryption technology, and enabling all available privacy settings.

"OCR is using all available means to support the efficient and safe administration of COVID-19 vaccines to as many people as possible," said March Bell, Acting OCR Director.

The Notification of Enforcement Discretion for Use of Online or Web-Based Scheduling Applications during the COVID-19 Nationwide Public Health Emergency may be found at <https://www.hhs.gov/sites/default/files/hipaa-vaccine-ned.pdf> - PDF *.

OCR's COVID-19 webpage and materials concerning the continued enforcement of civil rights laws and HIPAA during this public health emergency can be found at <https://www.hhs.gov/hipaa/for->



The UNIVERSITY of OKLAHOMA

Have you ever received mental health tele-therapy on an online or mobile platform, such as BetterHelp or Talkspace?

The word "POLL" is displayed in a 3D, isometric style using four red cubes. Each cube has a white letter on its front face: 'P', 'O', 'L', and 'L'. The cubes are arranged in a horizontal row, slightly offset to create a sense of depth. The entire graphic is enclosed within a thin black rectangular border.

Illustrative Telehealth Expansions during the COVID-19 Pandemic

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