

End of The Public Health Emergency- Now What?

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Disclaimer:

- ▶ This presentation was prepared as a tool to assist healthcare providers and administrators and is not intended to impose obligations. Although every reasonable effort has been made to assure the accuracy of the information within this presentation, the ultimate responsibility for the correct submission of claims and response to any remittance advice lies with the provider of services.
- ▶ This presentation is a general summary that explains certain aspects of the changes made in Medicare during the PHE, but is not a legal document. The official Medicare Program provisions are contained in the relevant laws, regulations, and rulings. Medicare policy changes frequently, please reference the links to the source documents that have been provided within the presentation for your reference.

Objectives:

- ▶ CMS Telehealth Policy Overview and Update
- ▶ Review how CMS Policies with change following the end of the COVID-19 PHE

The National Consortium of Telehealth Resource Centers



Regionals

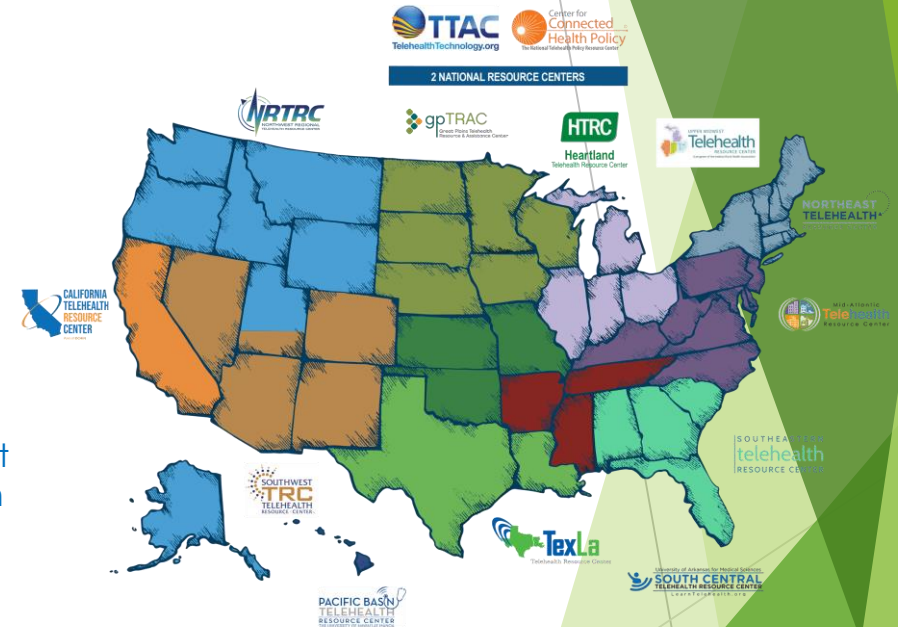


Nationals



The NRTRC is a part of the National Consortium of Telehealth resource centers (NCTRC).

The NRTRC is a collaboration of 12 regional and 2 national Telehealth Resource Centers, committed to implementing telehealth programs for rural and underserved communities. Funded by the Office for Advancement of Telehealth, The Office of Rural Health Policy and Health Resources and Services Administration, the objective is to provide timely and accurate information on telehealth across the nation. See [link](#) for details.



Public Health Emergency (PHE)

- ▶ First declared on January 31, 2020
- ▶ Renewed 12 times
- ▶ Last renewed on January 11, 2023
- ▶ End date of May 11, 2023
- ▶ Some Medicare flexibilities will have a 151-day extension post-PHE

Post-PHE CMS Telehealth Policy Overview and Update

▶ **Legislation**

- ▶ Consolidated Appropriations Act of 2021
- ▶ Budget Act 2022
- ▶ Consolidated Appropriations Act of 2023

▶ **Administration/Regulatory**

- ▶ Centers for Medicare and Medicaid (CMS)
- ▶ Physician Fee Schedule (PFS)

▶ **Guidance and Reports**

- ▶ Office of Civil Rights (OCR)
- ▶ Office of the Inspector General (OIG)

CY 2023 Physician Fee Schedule (PFS)

▶ Telehealth Services List

- ▶ Category 3 and interim telehealth codes added in 2021 good through 2023

▶ Other Telehealth Policies

- ▶ The proposal was finalized to allow physicians and practitioners to continue to bill with the place of service (POS) indicator that would have been reported had the service been furnished in-person.
 - ▶ These claims will require the modifier "95" to identify them as services furnished as telehealth services.
 - ▶ Claims can continue to be billed with the place of service code that would be used if the telehealth service had been furnished in-person through the later of the end of CY 2023 or end of the year in which the PHE ends.
- ▶ The Telehealth Originating Site Facility Fee has been updated for CY 2023, which can be found with the list of Medicare Telehealth List of Services at the following website:

<https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>

Telehealth Services and Codes Table



Telehealth Services and Codes

The table below includes current (as of Dec 2022) telehealth codes – effective Jan 1, 2023 – that are found on the full [CMS List of Telehealth Services](#), noting that many of the services and codes are relevant for delivering telebehavioral health services. All telehealth services and codes are grouped and include brief descriptions.

Service and Code Category Descriptions

- **Category 1 and 2 codes** (black normal font in table below) are on the permanent CMS list of telehealth services.
- **Category 3 codes** (blue font in table below) were added in the Calendar Year 2021 Physician Fee Schedule Final Rule and will remain on the list of telehealth services through Dec 31, 2023.
- **Interim Service** (*in italics in the table below*) codes are added only on an interim basis and will remain on the list for 151 days following the end of the public health emergency (PHE).

Codes and services specific to **telebehavioral health** are shaded teal

See your CPT® Professional codebook for full descriptions and additional requirements. None of the content herein can be construed as billing advice. If you have feedback, suggestions or corrections, please let us know at info@NRTRC.org

Service	CPT/HCPCs Code(s)	
Evaluation & Management (E/M) Visits - Outpatient		
Office or other outpatient visits for new patients (99202-99205) and established patients (99211-99215).	99202(\$74) 99203(\$114) 99204(\$170) 99205(\$224)	99211(\$23) 99212(\$57) 99213(\$92) 99214(\$131) 99215(\$184)
<i>Telephone E/M service by a physician or other qualified health care professional who may report E/M services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 99441 - 5-10 minutes (min) of medical discussion, 99442 - 11-20 mins of medical discussion, 99443 - 21-30 mins of medical discussion</i>		99441 99442 99443
<i>Home visit for the E/M of a new patient, counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. 99341 - usually, the presenting problem(s) are of low severity. Typically, 20 min are spent face-to-face with the patient and/or family, 99342 - usually, the presenting problem(s) are of moderate severity. Typically, 30 min are spent face-to-face with the patient and/or family, 99343 - usually, the presenting problem(s) are of moderate to high severity. Typically, 45 min are spent face-to-</i>		99341 99342 99343 99344 99345



Legislation

▶ **Consolidated Appropriations Act of 2021**

- ▶ Expanded permanent telehealth policy to allow for mental and behavioral health services to be provided in the home without geographic requirement applying **IF** certain conditions met (in-person visit w/telehealth provider 6 months prior to telehealth services taking place)

▶ **Budget Act of 2022**

- ▶ Delayed implementation of certain policies and expiration dates on some temporary waivers until 151 days after the PHE ends
 - ▶ FQHC, RHC, PT, OT, SLP remain eligible providers
 - ▶ Geographic limitation waived; home still eligible site for services
 - ▶ Audio-only can continue to be used
 - ▶ Expanded permanent telehealth policy to allow for mental and behavioral health services to be provided in the home without geographic requirement applying **IF** certain conditions met (in-person visit w/telehealth provider 6 months prior to telehealth services taking place)

Legislation

► Consolidated Appropriation Act, 2023, extended many Medicare telehealth flexibilities through December 31, 2024 (The Omnibus Government Spending

Package of 2022)

- **HR2617** extends the telehealth flexibilities that were passed in the budget bill for FY22 that included the 151-day extension at the end of the public health emergency. These flexibilities include:
 - Temporary suspension of the geographic site requirement.
 - Medicare reimbursement for telehealth services provided to patients at home, aside from certain exceptions.
 - Medicare reimbursement for an expanded list of eligible providers, such as occupational therapists, physical therapists, speech language pathologists and audiologists.
 - Medicare coverage of audio-only telehealth for non-mental health visits.
 - Reimbursement of FQHCs and RHCs as distant site telehealth providers for non-mental health services.

<https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>

<https://www.cms.gov/files/document/what-do-i-need-know-cms-waivers-flexibilities-and-transition-forward-covid-19-public-health.pdf>

Legislation

► **Consolidated Appropriation Act, 2023, extended many Medicare telehealth flexibilities through December 31, 2024** (The Omnibus Government Spending Package of 2022)

- For Medicaid and Children's Health Insurance Program (CHIP), telehealth flexibilities are not tied to the end of the PHE and have been offered by many state Medicaid programs long before the pandemic. Coverage will ultimately vary by state.
- To assist states with the continuation, adoption, or expansion of telehealth coverage, CMS has released the State Medicaid & CHIP Telehealth Toolkit and a supplement that identifies for states the policy topics that should be addressed to facilitate widespread adoption of telehealth.

<https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit-supplement1.pdf>

Summary

- ▶ **Temporary changes through the end of the COVID-19 public health emergency**
- ▶ Telehealth can be provided as an excepted benefit.
- ▶ Medicare-covered providers may use any non-public facing application to communicate with patients without risking any federal penalties — even if the application isn't in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- ▶ **CMS recently published policy updates for Medicare telehealth services**
- ▶ CMS clarified that temporary telehealth services added during the COVID-19 Public Health Emergency (PHE) will continue through the end of Calendar Year 2023.
- ▶ Telehealth services provided in the office setting will continue to be paid at the non-facility rate (higher payment) through the end of Calendar Year 2023.
- ▶ CMS will not implement new codes for remote therapeutic monitoring (RTM) as initially proposed.
- ▶ <https://telehealth.hhs.gov/providers/policy-changes-during-the-covid-19-public-health-emergency>

Post PHE At-A-Glance

<https://www.cms.gov/files/document/physicians-and-other-clinicians-cms-flexibilities-fight-covid-19.pdf>

COVID POLICY	PERMANENT ¹	ENDS WITH PHE	ACTIVE THROUGH 2023 ²	EXPIRES 12/31/24 ³	FACT SHEET PAGE
FACT SHEET: <u>PHYSICIAN & OTHER CLINICIANS</u>					
Allowing all eligible Medicare providers to provide services via telehealth.				X	5
Temporarily continue to allow the use of audio-only to provide certain services.				X	5, 8
Temporarily waive site requirements such as patient needing to be in a rural area or in a specified health care site when receiving services via telehealth.				X	5
Temporarily suspend in-person visit requirement for delivery of mental health services via telehealth when patient is not located in a geographically and/or site eligible location.				X	5



Center for Connected Health Policy

THE NATIONAL TELEHEALTH POLICY RESOURCE CENTER



COVID POLICY	PERMANENT ¹	ENDS WITH PHE	ACTIVE THROUGH 2023 ²	EXPIRES 12/31/24 ³	FACT SHEET PAGE
Temporary list of eligible services that may be provided via telehealth.			X ⁴		5-7
Allow remote evaluations, virtual check-ins and e-visits to be provided to new & established patients.		X (established patients only)			7
Allow other providers such as PTs, OTs, etc. to provide e-visits.	X				8
Allow remote physiological monitoring services to be furnished to new and established patients.		X (established patients only)			9
Waive requirement that 99453 and 99454 maybe reported with fewer than 16 days of data.		X			9
A subsequent inpatient visit could be furnished via Medicare telehealth, without the limitation that the telehealth visit is once every three days (CPT codes 99231-99233).		X			9
A subsequent skilled nursing facility visit could be furnished via Medicare telehealth, without the limitation that the telehealth visit is once every 14 days (CPT codes 99307-99310).		X			9
Critical care consult codes could be furnished to a Medicare beneficiary by telehealth beyond the once per day limitation (HCPCS codes G0508-G0509).		X			9
Allowing certain face-to-face visits for ESRD to take place via telehealth.		X			9-10
In-person/face-to-face visit requirement for National Coverage Determination (NCD) or Local Coverage Determination (LCD) may take place via telehealth.		X			10
Allowing obtaining annual beneficiary consent for virtual check-ins to be obtained at the same time as when the services are furnished. ⁵	X				10

COVID POLICY	PERMANENT ¹	ENDS WITH PHE	ACTIVE THROUGH 2023 ²	EXPIRES 12/31/24 ³	FACT SHEET PAGE
Federally required in-person visit for nursing home residents may take place virtually. (Ended in 2022)		X ⁶			10-11
Opioid Treatment Programs (OTPs) may use audio-only to provide counseling and therapy services when live video not available and certain other requirements met.	X ⁷				11
Virtual presence maybe be used to meet direct supervision requirements			X		11
Allowed teaching physicians utilizing a virtual presence to bill for services furnished by a resident in training if the setting was outside of an MSA and teaching physician was present during the key portion of service. For all teaching settings during the PHE, teaching physicians may direct care and review services each resident provides during or at once after each visit virtually.		X ⁸			13
Flexibilities to Stark Laws		X			17-18
FACT SHEET: FQHC/RHC					
Allow FQHCs/RHCs to continue to act as telehealth providers				X	3-4
Delay requirement of a prior in-person visit for the provision of a mental health visit via real-time telecommunication technology.				X	4
Allowing the use of virtual communication services (G0071)		X (Not completely)			4

COVID POLICY	PERMANENT ¹	ENDS WITH PHE	ACTIVE THROUGH 2023 ²	EXPIRES 12/31/24 ³	FACT SHEET PAGE
		ended but altered) ⁹			
FACT SHEET: HOME HEALTH AGENCY					
HHA may provide more services to beneficiaries using telecommunications technology within the 30-day care period as long as it's part of the patient's plan of care and does not replace needed in-person visits.	X				4
Required face-to-face encounter for home health may be conducted via telehealth when the patient is at home.				X	4
FACT SHEET: IN-PATIENT REHABILITATION FACILITIES					
Allowed physicians to conduct required face-to-face visits required three times a week via telehealth.		X			3-4
FACT SHEET: HOSPITALS & CAHS					
When a physician or nonphysician practitioner, who typically furnishes professional services in the hospital outpatient department, furnishes telehealth services to the patient's home during the COVID-19 PHE as a "distant site" practitioner, they bill with a hospital outpatient place of service, since that is likely where the services would have been furnished if not for the COVID19 PHE. The hospital may bill under the OPPTS for the originating site facility fee associated with the telehealth service.		X			4
CMS has been waiving the provisions related to telemedicine for hospitals and CAHs at 42 CFR 482.12(a)(8)-(9) and 42 CFR 485.616(c), making it easier for telemedicine services to be furnished to the hospital's patients through an agreement with an off-site hospital. This allows for increased access to necessary care for hospital and CAH patients, including access to specialty care.		X			15

COVID POLICY	PERMANENT ¹	ENDS WITH PHE	ACTIVE THROUGH 2023 ²	EXPIRES 12/31/24 ³	FACT SHEET PAGE
CMS has been waiving the requirement for CAHs that a doctor of medicine or osteopathy be physically present to provide medical direction, consultation, and supervision for the services provided in the CAH at § 485.631(b)(2). CMS is retaining the regulatory language in the second part of the requirement at § (b)(2) that a physician be available “through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral.”		X (Note that they will be retaining part of the policy)			27
Waived the specific requirement that prohibits CMHCs from providing partial hospitalization services and other CMHC services in an individual’s home using telecommunication technology.		X			29
FACT SHEET: HOSPICE					
During the PHE hospice providers may provide services to a Medicare patient receiving routine home care through telecommunications technology (e.g., remote patient monitoring; telephone calls (audio only and TTY); and two-way audio-video technology), if it is feasible and appropriate to do so.		X			4
Face-to-face encounters for purposes of patient recertification for the Medicare hospice benefit can now be conducted via telehealth (i.e., two-way audio-video telecommunications technology that allows for real-time interaction between the hospice physician/hospice nurse practitioner and the patient).				X	

Found in multiple fact sheets: During the PHE, providers were allowed to provide services via telehealth from their homes without reporting the home address. This waiver is extended through December 31, 2023.

End-of-the-PHE Compliance Checklist

End-of-the-PHE Telehealth Compliance Checklist

Reimbursement for Telehealth Services under the Medicare Physician Fee Schedule

- Effective January 1, 2024, **practitioners who render telehealth services from their home** will be required to report their home address on their Medicare enrollment
- **Geographic and location restrictions** will be waived through 12/31/24
- Waiver is permanent for **telebehavioral health services** subject to certain restrictions effective 1/1/25
- **Reimbursement for PT, OT, S/L pathologist, and audiologist telehealth services** will continue through 12/31/24
- **Reimbursement for audio-only services** (audio-only E/M (CPT 99441-43) and specified behavioral health & education services) will continue through 12/31/24
- **Reimbursement for RHCs and FQHCs for medical telehealth services** under G2025 will continue through 12/31/24 (reimbursement for telebehavioral health services as RHC/FQHC services are now permanently covered)
- **Reimbursement for Category 3 telehealth services** will continue through 12/31/23; reimbursement for services added to the telehealth services list during the PHE not designated as Category 1, 2, or 3 telehealth services will continue through 10/9/23 (these dates are subject to change during the 2024 MPFS rulemaking process)

Post-PHE

- ▶ Telehealth Flexibilities that go away
 - ▶ Prescribing controlled substances without an in-person exam

Resources

- ▶ <https://www.cms.gov/files/document/what-do-i-need-know-cms-waivers-flexibilities-and-transition-forward-covid-19-public-health.pdf>
- ▶ <https://nrtrc.org/resources/downloads/EndOfPHEComplianceChecklist.pdf>
- ▶ https://telehealth.hhs.gov/providers/policy-changes-during-the-covid-19-public-health-emergency/policy-changes-after-the-covid-19-public-health-emergency?utm_campaign=OATannouncements20230307&utm_medium=email&utm_source=govdelivery
- ▶ <https://www.cchpca.org/2023/03/MEDICARE-TELEHEALTH-POLICIES-POST-PHE-AT-A-GLANCE-FINAL-MAR-2023.pdf>
- ▶ <https://www.govinfo.gov/content/pkg/FR-2023-04-13/pdf/2023-07824.pdf>



What: free two-day, CME-accredited virtual conference, focusing on today's emerging topics in digital and TeleBehavioral health care.

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- TeleBH challenges and innovations
- PN-25 TeleBH track
- New 'digital landscape' accelerated by PHE
- Policy issues as PHE ends May 11, 2023.

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Thank You

Questions?

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