Telehealth Legislative and Policy Updates for Rural Health Clinics
Speaker

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Learning Objectives

• Increase knowledge of the telehealth-related changes included in the CY2022 Physician Fee Schedule and how these changes may impact Rural Health Clinics (RHCs)

• Receive an overview of the currently proposed federal legislation related to telehealth and how these changes could impact RHCs

• Understand the provisions of the CONNECT for Health Act of 2021 and its potential impact to RHCs if passed
Terminology Reminder

• Distant Site: Location of the **provider** during a telehealth visit
• Originating Site: Location of the **patient** during a telehealth visit
Timeline

• Proposed Rule released: July 13, 2021
• Comments closed: September 13, 2021
• Final Rule published: November 19, 2021
• Effective: January 1, 2022
Telehealth Services List

• No new services requested met Category 1 or 2: none added
• Extend Category 3 services to end of CY2023
  • Previously to end of year the public health emergency (PHE) declared over
• Codes added to Medicare telehealth services list under Category 3
  • CPT codes 93797 and 93798
  • HCPCS codes G0422 and G0423
Mental Health: Background

• Consolidated Appropriations Act removed geographic limitation and allowed home as originating site of mental health services
  • HOWEVER, patient must have had in-person visit within six months
  • UNLESS visit would have qualified under rural restriction (i.e. qualified originating site)
Mental Health: Audio/Video

• In-person visit must take place 6 months prior to first telehealth visit

• Additional in-person visits every 12 months with some limited exceptions

• In-person visit can be with different provider of same subspecialty in same group
Mental Health: Audio-Only

• Allow audio-only for mental health services to an established patient when the originating site is the patient’s home
  • Can be temporary lodging
• Provider must have the technical capability to use audio and video
• Patient must be incapable or has not consented to the use of live video
• Requires in-person visit within 6 months of telehealth services
RHCs

• Redefine mental health visit for RHCs
  • Previous definition of a Visit: “medically necessary, face-to-face encounters between a patient and an RHC or FQHC practitioner, during which time one or more RHC or FQHC qualifying services are furnished”
  • Addition: “also include encounters furnished through interactive, real-time telecommunications technology” when furnishing services for the purposes of diagnosis, evaluation, or treatment of a mental health disorder
  • Not defined as a “telehealth” visit by CMS—billed and paid as regular mental health encounter

• In-person visit must take place 6 months prior to first telehealth visit
• Additional in-person visits every 12 months with limited exceptions
Proposed Legislation
Disclaimer

• At the time this presentation is being developed, the legislation included has not been finalized or signed into law

• It is recommended that providers monitor these bills over the coming months
Proposed Legislation

• Protecting Rural Telehealth Access Act (S. 1988)
• Telehealth Modernization Act (H.R. 1332)
• Protecting Access to Post-COVID–19 Telehealth Act of 2021 (H.R. 366)
• Expanded Telehealth Access Act (H.R. 2168)
• CONNECT for Health Act of 2021 (H.R. 2903; S. 1512)
• Omnibus Bill including telehealth language anticipated in December
Protecting Rural Telehealth Access Act

- Eliminates geographic requirements for originating sites
- Eliminates restrictions on home serving as originating site
- Eliminates restrictions on store and forward
- Grants RHCs permanent ability to serve as distant sites
- Allows for utilization for telehealth via audio-only technology
Telehealth Modernization Act

• Removes originating site restrictions
• Allows CMS to expand the list of eligible telehealth providers
• Retains as appropriate the expanded telehealth services list
• Allows RHCs to serve as distant site providers
Protecting Access to Post-COVID-19 Telehealth Act of 2021

• Requires the U.S. Department of Health and Human Services (HHS) to analyze telehealth impact and report to Congress
• Allows RHCs to serve as distant site providers
• Eliminates geographic restriction on originating site
• Allows patient home to serve as originating site
Expanded Telehealth Access Act

• Allow the following to provide telehealth services
  • Audiologists
  • Physical therapists
  • Occupational therapists
  • Speech-language pathologists
  • Other similar providers
CONNECT for Health Act
Purpose

• Removes Barriers to Telehealth Coverage
• Ensures Program Integrity
• Provides for Data and Testing of Models
Removes Barriers to Telehealth Coverage

Source: Center for Connected Health Policy
Modality Used

Current Rules
• Under legal definition, telehealth services are to be furnished via a “telecommunication system”
• CMS interprets interactive requirement

CONNECT Act Proposal
• HHS Secretary can modify, when appropriate, the definition of “interactive telecommunications system”
Location of Patient

Current Rules

• Patient must be in a “rural” or non-Metropolitan Statistical Area (MSA)
• Specific List of Eligible Sites with limited allowances for the home

CONNECT Act Proposal

• Geographic limitations removed
• Home allowed as an originating site for all services
• HHS Secretary may add additional sites and develop specific policies for those sites
Providers Allowed

Current Rules

• RHCs only qualify as originating sites

• Exception during COVID-19 PHE with reimbursement of $92.06

CONNECT Act Proposal

• RHCs allowed to act as distant site providers permanently

• Would receive all-inclusive rate (AIR)
Services Covered

Current Rules

• Services added to telehealth list under Category 1 Test or Category 2 Test

• Category 2 Test evidence is vague

CONNECT Act Proposal

• HHS Secretary is directed to improve the process in which services are added to the telehealth eligible list

• Allow HHS Secretary to add services on a temporary basis to the eligible telehealth list
Additional Provisions

• HHS Secretary would have authority to waive requirements during public health epidemics
  • Originating site
  • Geographic limitations
  • Limits on the types of technology used
  • Limits on the types of practitioners eligible to provide services via telehealth in Medicare
  • Types of services covered
  • Any other limitation the Secretary deems necessary
Ensures Program Integrity

• Office of Inspector General
  • $3 million annually (2022-2026) to conduct audits, investigations, and oversight of telehealth

• Secretary to make training and education resources available
  • Ensure awareness of changes and opportunities
Provides for Data and Testing of Models

- Secretary to collect and analyze data for both telehealth and communications technology based services
  - Interim and Final Reports to Congress
- Analysis of telehealth waivers in alternative payment models
- Test models to examine the use of telehealth under the Medicare program
Resources

- CONNECT for Health Act of 2021
- CY 2022 Physician Fee Schedule
- Center for Connected Health Policy
  - Pending Federal Legislation Tracker
  - Louisiana Laws & Policy
  - Proposed CY 2022 Physician Fee Schedule Fact Sheet
  - CONNECT Act Fact Sheet
Questions?
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