

RURAL **HEALTH** WORKSHOP

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

CY2022 Physician Fee Schedule

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

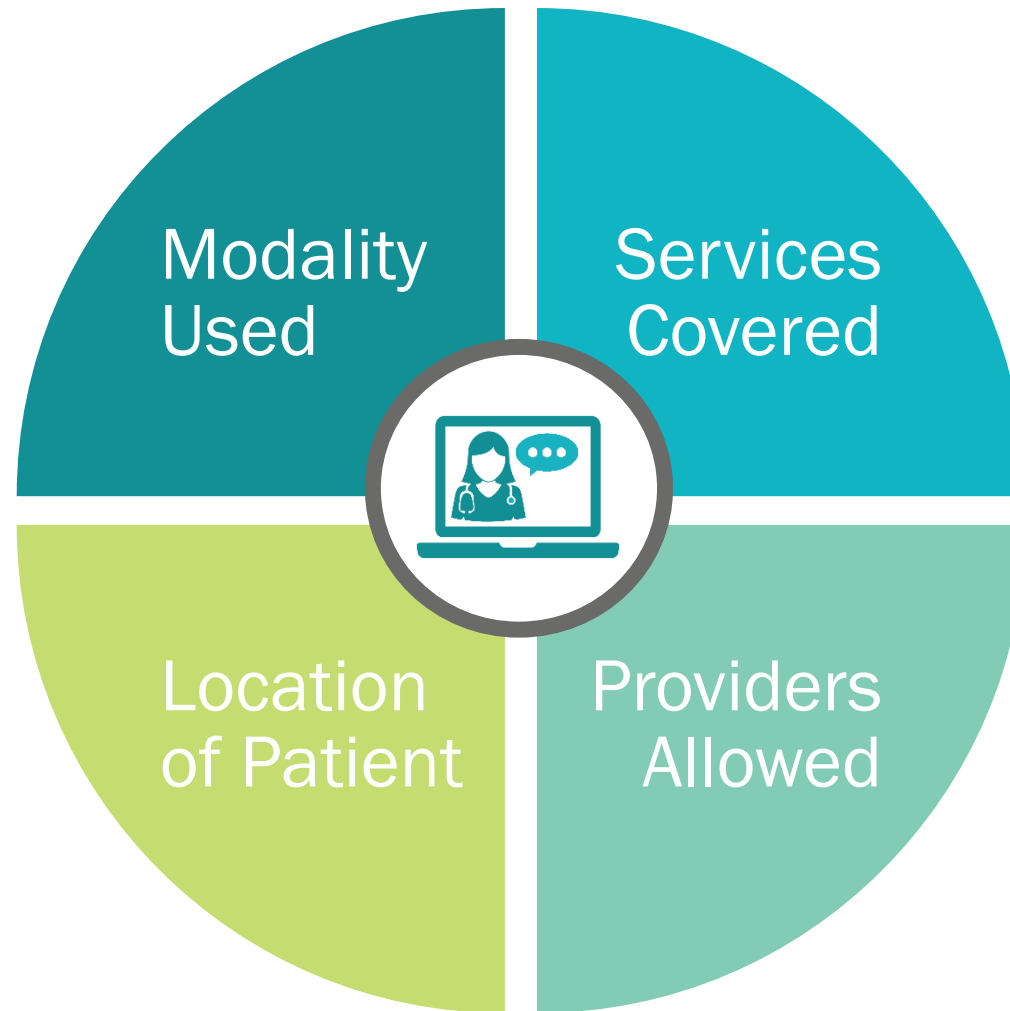
- Allow the following to provide telehealth services
 - Audiologists
 - Physical therapists
 - Occupational therapists
 - Speech-language pathologists
 - Other similar providers

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



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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Provider Education Network

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Thank you for joining us!

