



National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

910 Pennsylvania Avenue, SE | Washington, D.C. 20003 | 202-507-4070 | www.nihb.org

Updated March 25, 2020

Background

When the President of the United States declares a disaster or emergency under the Stafford Act or National Emergencies Act and the Department of Health and Human Services (HHS) Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the HHS Secretary is authorized to use Section 1135 of the Social Security Act to modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements in order to allow states to respond to the emergency.

On January 30, 2020, the Department of Health and Human Services Secretary Alex Azar declared a Public Health Emergency (PHE). Because the President had already declared an emergency under the Stafford Act, this declaration allows for the usage of the Section 1135 waiver authority under the Social Security Act, which allows for temporary expansion of telehealth. By making telehealth more easily available through these various authorities, the Centers for Medicare and Medicaid Services (CMS) hopes to reduce the spread of novel coronavirus (COVID-19).

The scope of this paper is limited to telehealth for Medicare and Medicaid programs.

Medicare Telehealth

Before the declaration of the current PHE, Medicare covered *limited* telehealth services.

Medicare will now cover 3 types of telehealth services:

1. **eVisits:** brief communication between a patient and their provider through an online portal.
2. **Virtual Check ins:** a 5-10 minute visit between a patient and their provider via telephone or other similar device to determine whether an in-person visit is necessary.
3. **Medicare Telehealth Visit:** an office, follow-up, or emergency visit with a provider via telephone or similar device with video capability.

On March 17, 2020, CMS released a list of [Medicare Telehealth Frequently Asked Questions \(FAQs\)](#).

Payment

Medicare Part B pays for telehealth services. Here are a few important things to know about coverage and payment:

- This policy is effective beginning March 6, 2020, and lasts for the duration of the national emergency.



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- In order for the telehealth service to be covered, the patient must have an established relationship with the clinician (i.e., not a first-time patient)
- Covered provider types include:
 1. General Practitioners – see the CMS toolkit [here](#)
 2. Nurse Practitioners
 3. Clinical Psychologists
 4. Licensed Clinical Social Workers
 5. End-Stage Renal Disease (ESRD) Providers – see the CMS toolkit [here](#)

Medicaid Telehealth

CMS created [a document](#) that overviews Medicaid telehealth flexibilities.

Telehealth is currently permissible in Fee-For-Service Medicaid – those in Medicaid Managed Care are not currently eligible for telehealth flexibility. Since Medicaid is jointly-funded between states and the federal government, CMS guidance authorizes states to apply for 1135 waivers that expand telehealth capabilities. As mentioned, an approved 1135 waiver only grants temporary expansion during the Public Health Emergency. CMS says that although a State Plan Amendment (SPA) is not required, states need an approved State plan payment methodology (and thus, might need to submit a SPA) to establish rates or payment methodologies for telehealth services that differ from those applicable for the same services furnished in a face-to-face setting. Thus far, Medicaid does not specify reimbursement rates for telehealth – only requiring that payments do not exceed Federal Upper Limits. NIHB recommends that providers are reimbursed for virtual telehealth at the full Encounter / OMB rate.

As of this writing, CMS approved 1135 demonstrations for 16 states. Of those, three requested coverage for Medicaid telehealth, but CMS has not approved any yet. NIHB is investigating the reason for the disapprovals, and plans to update MMPC on the status as soon as information is available.

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