

PUBLICATION

CMS Announces Further Telehealth Expansions

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On October 14, CMS announced several changes designed to expand access to telehealth. CMS made further additions to the list of services that Medicare will pay for practitioners to furnish through telehealth for the duration of the COVID-19 Public Health Emergency (PHE) ("Medicare Telehealth List"). Additionally, CMS provided data and resources to support telehealth efforts by state Medicaid and Children's Health Insurance Program (CHIP) agencies.

Additions to the List of Medicare Covered Telehealth Services

In a [press release](#), CMS announced the most recent expansion of the Medicare Telehealth List as a response to President Trump's August 3, 2020 [Executive Order on Improving Rural Health and Telehealth Access](#). The updated Medicare Telehealth List is available on the CMS [website](#), and the 11 newly added services include:

- Cardiac Rehabilitation Services:
 - 93797: Cardiac rehab
 - 93798: Cardiac rehab/monitor
- Intensive Cardiac Rehabilitation Services:
 - G0422: Intensive cardiac rehab with exercise
 - G0423: Intensive cardiac rehab, no exercise
- Pulmonary Rehabilitation Services:
 - G0424: Pulmonary rehab with exercise
- Neurostimulator Analysis and Programming Services:
 - 95970: *Electronic analysis of implanted neurostimulator pulse without programming*
 - 95971: *Electronic analysis of implanted neurostimulator pulse generator/transmitter with programming*
 - 95972: *Electronic analysis of implanted neurostimulator pulse generator/transmitter*
 - 95983: *Electronic analysis of implanted neurostimulator pulse generator/transmitter, by physician or other qualified health profession; with brain neurostimulator pulse generator/transmitter programming; first 15 minutes face-to-face with physician or other qualified health professional*
 - 95984: *Electronic analysis of implanted neurostimulator pulse generator/transmitter, by physician or other qualified health care professional; with brain neurostimulator pulse generator/transmitter programming; each additional 15 minutes face-to-face with physician or other qualified health care professional*
- In-person ventricular assist device (VAD) interrogation: 93750

All of these services are temporary additions to the telehealth list only for the duration of the COVID-19 PHE.

Before the COVID-19 PHE, Medicare only covered a limited list of services furnished via telehealth that generally fell into the categories of professional consultations, office medical visits, office psychiatry services,

and additional service specified by the HHS Secretary when furnished via an interactive telecommunications system and added through the Physician Fee Schedule Rulemaking Process. Social Security Act § 1834(m)(4)(F). *See also* 42 C.F.R. § 410.78(f).

To address demand for access to services via telehealth in response to the COVID-19 pandemic, the CARES Act provided HHS with authority to waive any of the Social Security Act § 1834(m) requirements pertaining to telemedicine (including the standard process required to add telehealth services to the CMS telehealth list). Through Interim Final Rules with Comment Period (IFCs), CMS made additions to the telehealth services covered by Medicare during the COVID-19 PHE and finalized a temporary policy to use a sub-regulatory process to add telehealth services to the Medicare Telehealth List for the duration of the COVID-19 PHE. Services CMS previously added included, but were not limited to, codes for emergency department visits, critical care services and therapy services.

Additionally, in the CY 2021 Physician Fee Schedule (PFS) proposed rule, CMS proposed to add certain services to the Medicare Telehealth List on a permanent basis. These services were generally selected for permanent addition because they are similar to the professional consultations, office visits and office psychiatry services that are already covered on the Medicare Telehealth List. Examples include group psychotherapy services (90853), neurobehavioral status exams (96121) and home visits (99437 and 99438). In addition, CMS proposed to continue certain services added on a temporary basis for the duration of the COVID-19 PHE until the end of the calendar year in which the PHE ends. Given that the CY 2021 PFS Final Rule has not yet been released, it remains unclear whether these additions to the Medicare Telehealth List will be finalized.

According to CMS's October 14 press release, when the 11 services newly added to the Medicare Telehealth List on a temporary basis are combined with prior additions, the Medicare Telehealth List has grown to include 144 services. This represents a substantial increase in Medicare covered telehealth services, even if many of the services are only covered for the duration of the COVID-19 PHE at this point.

Snapshot of Medicaid and CHIP Utilization Data and Medicaid & CHIP Telehealth Toolkit Supplement

The Trump Administration and CMS are also supporting expanded telehealth access through the Medicaid and CHIP programs by: 1) releasing a Medicaid and CHIP snapshot of [data](#) on utilization of telehealth services in response to the pandemic, and 2) releasing a supplement to CMS's *State Medicaid & CHIP Telehealth Toolkit: Policy Considerations for States Expanding Use of Telehealth, COVID-19 Version*.

The utilization data show exponential growth in telehealth visits delivered to Medicaid and CHIP beneficiaries as compared to the same timeframe the prior year. The toolkit supplement provides additional examples and best practices from states that have expanded telehealth access and effectively communicated with providers to increase access to care via telehealth. The toolkit is also designed to equip providers with tools to continue telehealth offerings and programs beyond the COVID-19 PHE.

For additional information please contact [Allison Cohen](#) or any member of Baker Donelson's [Telehealth](#) group.