

PUBLICATION

OIG Reports Highlight State Challenges and Call for Increased Oversight to Improve the Provision of Medicaid Behavioral Health Services via Telehealth

Authors: Allison M. Cohen

October 04, 2021

The U.S. Department of Health and Human Services Office of Inspector General (OIG) recently issued two data briefs addressing challenges with the provision of behavioral health services to Medicaid enrollees, and calling for evaluation and oversight in the use of telehealth to meet the behavioral health needs of Medicaid beneficiaries. The OIG's review provides insights into difficulties states encountered when using telehealth to provide behavioral health services even before the expansion of telehealth in response to the COVID-19 pandemic. By highlighting some of these challenges and the need for increased oversight, the OIG hopes to encourage states to implement changes that will improve how their Medicaid programs use telehealth to provide behavioral health services.

The data briefs stem from a survey of Medicaid directors from 37 states and interviews of relevant stakeholders, which provide insight into states' challenges and oversight efforts as of January and February 2020. The reports acknowledge that the COVID-19 pandemic has led to increased reliance on telehealth services over the past year and a half. Starting March 2020, federal and state agencies implemented many flexibilities to permit easier access to telehealth services. As a result, the virtual delivery of health care services for Medicaid populations has become more prevalent. Behavioral health services delivered through telehealth include, but are not limited to, mental health assessments, individual therapy, and medication management. While tele-behavioral health is most commonly provided through live, two-way video between a provider and an enrollee, some states permit the use of audio-only, text-only or email-only communications.

In one of the [data briefs](#), the OIG focused on the various challenges associated with using telehealth to provide behavioral health services to Medicaid enrollees. Specifically, the OIG noted that these include difficulties associated with: inadequate training, limited internet connectivity, protecting the privacy and security of enrollees' personal information, the cost of telehealth infrastructure, interoperability issues, lack of licensing reciprocity in some states, and obtaining informed consent from enrollees. The OIG recommended that Centers for Medicare and Medicaid Services (CMS) share information to help states address these challenges. CMS concurred with the recommendation and plans to further support states' use of telehealth to ensure the provision of high-quality behavioral health services to the Medicaid population. However, CMS noted that the telehealth landscape has vastly changed since the time the surveys were conducted.

In its companion [data brief](#), the OIG highlighted opportunities to strengthen oversight of telehealth for Medicaid behavioral health services in light of the fact that most states have not evaluated the effects of telehealth in their state. Notably, three states were unable to distinguish between services that were provided via telehealth versus in-person. However, the states that did evaluate the effects of telehealth found that telehealth increased access to care and reduced costs for services.

In addition, the report noted concerns related to the quality of care provided and high potential for fraud, waste, and abuse. The OIG found that many states did not conduct monitoring or oversight specific to telehealth, with only 11 states conducting telehealth-specific monitoring and oversight. The concerns around fraud and abuse in the telehealth industry are particularly pertinent given that the [DOJ recently charged](#) numerous individuals,

including doctors, nurses, and other licensed medical professionals, in relation to a telehealth fraud scheme allegedly totaling a government loss of \$1.1 billion.

In the companion data brief, the OIG recommended that CMS:

1. Ensure that the three states that are unable to distinguish telehealth from in-person services implement indicators to differentiate the services;
2. Conduct evaluations, and support state efforts to evaluate the effects of telehealth on access, cost, and quality of behavioral health services; and
3. Monitor for fraud, waste, and abuse, and support state efforts to oversee telehealth for behavioral health services.

CMS concurred with the first recommendation and noted that it has supported state telehealth efforts and is currently monitoring the impact of the COVID-19 public health emergency on behavioral health services delivered through telehealth.

The OIG reports highlight the fact that with broader telehealth adoption, we can expect increased scrutiny of telehealth services, as evidenced by the recent enforcement actions around telehealth and telemedicine. Providers should be cognizant of the changing landscape and adopt best practices to address the challenges associated with the provision of telehealth services to respond to increased oversight.

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