

# Telehealth and Health IT: The COVID-19 Sea Change.

**In the past month, Congress has passed three bills providing sea change funding** and / or expansion of the use of technology, particularly telehealth, to support patient care in the era of COVID-19. In addition, CMS released an interim final rule on March 30, 2020 with sweeping changes to telehealth. Highlights of the health IT aspects of these bills and the rule, their impact, and practical guidance are provided in this Pivot Point Perspective.

1.

## **Coronavirus Preparedness and Response Supplemental Appropriations Act (H.R. 6074).**

Signed on March 6, 2020, this Act contains \$8.3 billion to help healthcare organizations address the COVID-19 outbreak, including \$500 million for telehealth funding and expanded coverage. The law stipulates the telehealth waivers and relaxations are in effect during the Public Health Emergency (PHE).

### **Key provisions include:**

- Patients outside of rural areas, and patients in their homes are eligible for telehealth services
- The Act authorizes the Department of Health and Human Services (HHS) to
  - Remove certain geographic restrictions for Medicare beneficiaries who are “established patients” of a provider
  - Allow use of telephones with audio and video capabilities for Medicare telehealth*Note – see CARES Act below for further modification to these policies*
- Authorized the Office for Civil Rights (OCR) “enforcement discretion” and the ability to waive penalties for HIPAA violations against health care providers that serve patients using FaceTime or Skype or similar technologies
- Allows providers to issue prescriptions via telehealth for schedule II-V controlled substances assuming certain Drug Enforcement Agency (DEA) requirements are met

2.

## **Families First Coronavirus Response Act (H.R. 6201).**

This Act, established March 18, 2020, provides an additional \$2.5 billion to address COVID-19. Primarily these funds are geared towards testing, services, and supporting workers who become ill or who are caring for someone who is ill. This act also provides states and U.S. territories with increased Medicaid funding for all medical services, which can further the adoption of telehealth technologies.

3.

### **The Coronavirus Aid, Relief, and Economic Sanctions (CARES) Act (H.R. 784).**

March 27, 2020, the CARES Act was signed into law. This Act provides nearly \$200 billion in aid for the healthcare industry. Approximately \$100 billion is for reimbursing providers for expenses related to treating COVID-19 patients or for lost revenue.

#### **Key healthcare technology provisions of the CARES Act include:**

- \$4.3 billion for the Centers for Disease Control and Prevention (CDC), including \$500 million for Public Health Data Surveillance and Infrastructure Modernization
- \$275 million to the Health Resources and Services Administration (HRSA) to expand services and capacity for rural hospitals, telehealth and other programs
- \$1 billion for the Indian Health Service for activities including telehealth, electronic health record modernization and other IT upgrades
- \$27 billion for the Public Health and Social Services Emergency for telehealth access and infrastructure, among other needs
- For the Department of Veteran Affairs (VA)
  - \$14.4 billion to support increased demand at VA facilities and through telehealth
  - \$2.15 billion for increased telework, telehealth and call center capabilities
  - Waives the in-person home visit enrollment requirement and permits telephone and telehealth visits
- \$200 million for the Federal Communications Commission (FCC) to support telecommunication and information technology and devices for telehealth services during an emergency period
- Allows for FQHCs and RHCs as “distant site” telehealth providers allowing them to bill
- Allows for telehealth to be used to fulfill the hospice face-to-face recertification requirements and encourages home health services via telehealth
- Allows high-deductible health plans with health savings accounts (HSAs) to cover telehealth services prior to a patient reaching the deductible
- Waives the face-to-face requirement for home dialysis visits
- Further relaxes the provisions of H.R. 6074 by removing the established patient requirement for Medicare telehealth services and grants the Secretary authority to allow audio-only telehealth

Additionally, this Act aligns the release of substance abuse records with HIPAA consent once initial patient consent is sought. This significant change will impact record release policies, EHR build and staff workflows.



### **CMS Telehealth Interim Final Rule (CMS-1744-IFC).**

On March 30, 2020, CMS issued further guidance to allow healthcare organizations and providers “maximum flexibility to respond to the pandemic” and a telehealth interim final rule that codifies and expands many of the allowances previously provided. These changes, in effect during the PHE, will apply immediately across the entire U.S. healthcare system and include:

- Expanding sites of physical care – including ambulatory surgery centers, rehabilitation hospitals, hotels and dormitories, and allowing COVID-19 testing at drive-through and off-campus testing
- Waiving requirements to allow for the expedited hiring of healthcare providers and for providers to work at the top of their licenses and easing administrative burdens
- Furthering telehealth expansion:
  - Coverage of 80 new services and new sites of care (i.e., nursing homes)
  - Changes in reimbursement
  - Use of audio-only telehealth
  - "Stark Law" Waivers

### **Prepare your Organization for these Changes.**

Capitalizing on the opportunities these laws offer requires rapid evolution in processes and technology. In some cases, the Federal Government is still working on the plans for releasing funds. In other cases, the changes are immediate and require real-time response. Regardless of timing, healthcare organizations should:

- Review the bills and interim final rule to understand the specifics that apply to them for establishing or expanding telehealth and other services, garner additional funding, etc.
- Deploy or expand telehealth capabilities. For guidance, see our [telehealth solutions](#).
- Prepare EHR and reports to capture key volume and services metrics dating back to March 1, 2020
- Quickly implement coding updates and revenue cycle workflow changes. For guidance see our, [Telehealth Billing Best Practices](#).
- Ensure provider documentation is adequate and consider using audio recording to support coding
- Align closely with your Compliance team regarding coding changes and modifications to the substance abuse records consent
- Embrace this opportunity – many waivers and relaxations were put in place during this PHE. Once this passes, it may be hard for HHS to revoke those changes, particularly if there is broad adoption and industry support. Build capabilities – technical, operational and revenue cycle – for the long run.



Useful resources on these Acts and telehealth.

[AHA CARES Act Bulletin](#)

[CHIME Legislative Summary](#)

[Hall Render Covid Resource Center](#)

[CMS Website Bulletin](#)



*The information provided here is current as of 3/31/20. Please contact our specialists at **800-381-9681** or [letschat@pivotpointconsulting.com](mailto:letschat@pivotpointconsulting.com) for updates or questions.*