



2020



# Flurry of Telehealth Federal Legislation, Mounting Pressure For Medicare Telehealth Expansion To Be Made Permanent

MTELEHEALTH

MTELEHEALTH, LLC | 455 NE 5th Avenue, Suite D144, Delray Beach, FL 33483 |  
ph 561.366.2333 | fx 561-366-2332 | [www.mTelehealth.com](http://www.mTelehealth.com)



## Flurry of Telehealth–Related Bills Introduced in Congress in June

June brought a flurry of newly introduced telehealth–related legislation, each of which takes different approaches to either expand or study telehealth policies during the COVID–19 emergency period or addresses permanent changes in telehealth policies that would apply once the emergency ends.

### HEALTH Act of 2020

[HR 7187](#) (*Rep. Thompson R–PA*) – Provides that following the public health emergency services furnished by a rural health clinic (RHCs) or federally qualified health center (FQHCs) would be payable as a RHC or FQHC service or under the prospective payment system (PPS). Telehealth services would be considered allowable costs for purposes of the PPS system. It would also exempt FQHCs and RHCs from the originating site and rural requirements that would resume once the public health emergency (PHE) ends. Finally, it would require the revision of regulation to allow telehealth services to constitute as a visit for FQHCs and RHCs. **(Status: 6/11/20 – In House Committee on Energy and Commerce; Ways and Means)**

### EDOT Act of 2020

[HR 7078](#) (*Rep. Kelly D–IL*) – Requires the Secretary of Health and Human Services to conduct a study and submit to specific committees in Congress an interim report on any changes made to the provision or availability of telehealth services during the public health emergency. Specifically, they are directed to report on utilization data as well as to consult with relevant stakeholders. It also makes grants available for Medicaid programs with a State plan in effect to study and submit reports to the Secretary on any changes made to the provision or availability of telehealth under the state plan during the emergency period. **(Status: 6/1/20 – In House Committee on Energy and Commerce; Ways and Means)**

### Home–Based Telemental Health Care Demonstration

[S 3917](#) (*Sen. Rounds R–SD*) – Requires the Secretary to act through the Director of the Office for the Advancement of Telehealth under the Health Resources And Services Administration and in coordination with the Rural Health Liaison of the Department of Agriculture to award grants to eligible entities to establish demonstration projects for the provision of mental health services to covered populations in their homes by professionals trained in mental health using telemental

health care. (Status: 6/9/20 – In Senate Committee on Health, Education, Labor and Pensions)

**Increasing Rural Health Access During the COVID-19 Public Health Emergency Act of 2020**  
[HR 7190](#) (Rep. Torres Small D-NM) – Requires the Secretary to establish a virtual health pilot program to facilitate utilization of remote patient monitoring technology to maintain or expand access to health care services for individuals in rural areas during the COVID-19 emergency period. (Status: 6/11/20 – In House Appropriations Committee)

A number of additional telehealth-related federal bills were also introduced in June. A few examples are listed below with the bill's intent for a description:

- [S. 3993 \(Sen. Cruz R-TX\)](#) – A bill to permit a licensed health care provider to provide health care services to individuals in one or more States in which the provider is not licensed.
- [S. 3988 \(Sen. Cassidy R-LA\)](#) – A bill to amend the Public Health Service Act with respect to telehealth enhancements for emergency response.
- [S. 3999 \(Sen. King I-ME\)](#) – A bill to amend title XVIII of the Social Security Act to ensure access to mental health and behavioral health services furnished through telehealth under the Medicare program.
- [S. 3998 \(Sen. Hyde-Smith R-MS\)](#) – A bill to amend title XVIII of the Social Security Act to simplify payments for telehealth services furnished by federally qualified health centers or rural health clinics under the Medicare program, and for other purposes.
- [HR 7391 \(Rep. Sherrill D-NJ\)](#) – To amend title XVIII of the Social Security Act to remove certain geographic and originating site restrictions on the furnishing of telehealth services under the Medicare program.

For more bills that have been introduced recently, visit [CCHP's legislative and regulatory tracker](#).

## Recap of Senate Hearing in June & Senators Letter

In mid-June, the Senate [Health, Education, Labor and Pensions \(HELP\)](#) Committee held a hearing titled, “[Telehealth: Lessons from the COVID-19 Pandemic](#).” During the hearing, Senators heard from witnesses who spoke of the importance of telehealth throughout the pandemic and its ability to deliver healthcare effectively and efficiently even prior to the PHE. They also spoke of patient's broad acceptance of virtual visits and remote patient monitoring and warned of the potential for patients to lose their access to healthcare if the telehealth expansions are not made

permanent. There are 31 temporary federal policy changes that have occurred related to telehealth since the PHE was declared. As a reference, the Center for Connected Health Policy (CCHP) has prepared a [chart of the most significant federal telehealth COVID-19 emergency actions](#).

This hearing comes as pressure mounts to make the COVID-19 related changes in Medicare for telehealth permanent. In mid-June, Senator Schatz, along with twenty-seven other congressmembers submitted a [letter](#) to Majority Leader McConnell and Minority Leader Schumer expressing the importance for the telehealth policy expansions to be made permanent for their constituents. A [separate letter](#) was also sent in early July to Health and Human Services Secretary Alex Azar and CMS Administrator Seema Verma requesting they provide Congress a list of telehealth changes that will require Congressional action, as well as a plan for making the administrative adjustments needed in CMS regulation and administrative policy for changes that don't require congressional action. Stay tuned for future updates.

## Update on the FCC COVID-19 Telehealth Program

At the end of June, the [Federal Communications Commission](#) closed its application window for the [COVID-19 Telehealth Program](#). The COVID-19 Telehealth Program would distribute up to \$200 million to assist eligible providers to purchase telecommunications services, information services, and devices necessary to provide connected care services, both for the treatment of coronavirus as well as other conditions that occur over the course of the pandemic. The FCC first started accepting applications for the program in early June and were committed to issue awards on a rolling basis until the \$200 million fund had been exhausted. According to a [program report issued by the FCC](#) last week, as of June 24, 2020, the FCC had approved a total of \$157.64 million in funding for 444 applications in both urban and rural areas in 46 states plus Washington, DC. The report follows a [letter](#) from the US House of Representatives Committee on Energy and Commerce addressed to FCC Chairman Ajit Pai requesting additional transparency to the public and Congress regarding the awards under the COVID-19 Telehealth Program. For more information on the COVID-19 Telehealth Program, see the [FCC's Frequently Asked Questions resource](#) on the program.

## MACPAC Medicaid Telehealth Policies Catalog Overview and Findings

In June, the [Medicaid and CHIP Payment and Access Commission](#) (MACPAC) released a [report](#) containing a summary and catalog of policies in all 50 state, the District of Columbia and five territories chronicling Medicaid telehealth policies both pre-COVID-19 pandemic and those that occurred in response to it. Their findings are also summarized in the report, and include the identification of the most common Medicaid policy changes made in response to the COVID-19 emergency, such as allowing the home to qualify as an originating site, expanding the services and providers eligible to provide telehealth, and allowing the telephone to be used as a service delivery modality. CCHP is also tracking COVID-19 state actions through an [interactive webpage](#), that include links to source documents regarding Medicaid, private payers, licensing and prescribing and is updated on a continual basis.

## Interim Final Rule from Dep. Of Veterans Affairs on their Program of Comprehensive Assistance for Family Caregivers

The [Department of Veterans Affairs](#) has issued an [Interim Final Rule](#) revising its regulations that govern the [VA's Program of Comprehensive Assistance for Family Caregivers](#) (PCAFC). The program provides family caregivers of eligible veterans certain benefits, such as training, respite care, counseling, technical support and a monthly stipend. While the program ordinarily requires in-person home visits take place, the Interim Final Rule relaxes that requirement during the national COVID-19 emergency, so that the VA will have flexibility to conduct home visits by other means, such as videoconference or other available telehealth modalities in order to ensure the safety and well-being of veterans, caregivers and VA clinical staff participating in the program.

## Kaiser Family Foundation Issue Brief on State Medicaid Expansions for Telehealth

The [Kaiser Family Foundation](#) (KFF) has recently released an [issue brief](#) to highlight recent federal guidance to assist Medicaid programs in developing telehealth policies in light of COVID-19, discuss trends in Medicaid telehealth policy expansions, highlight state and federal activity to support providers implementing and expanding telehealth programs, and expand access for

patients.

**Key takeaways from the issue brief include:**

- States have broad flexibility to determine whether and how to cover services delivered via telehealth in their Medicaid programs.
- States are expanding telehealth access broadly and for specific services.
- States and the federal government are taking additional actions to increase provider and patient access to technologies required for telehealth.

For more information, read the full [KFF Issue Brief](#).

## HEDIS Measure Update

The [National Committee for Quality Assurance](#) (NCQA) has updated their [telehealth guidance](#) in 40 HEDIS measures for years 2020 and 2021. HEDIS includes measures for physicians, and other organizations to measure performance in health care where improvements can make meaningful differences. Areas of focus include, effectiveness of care, availability of care, utilization, risk adjusted utilization and measures collected using electronic clinical data systems. The updates to the 2020 and 2021 measures were made to support increased use of telehealth during the COVID-19 pandemic and align with telehealth guidance from CMS and other stakeholders. The telehealth revisions are reflected in the [HEDIS Volume 2 Technical Specifications](#) released July 1, 2020.

## STATE LEGISLATION

### VERMONT

[H 960](#) – Allows for the provision of telemedicine or store-and-forward until March 31, 2021 without complying with certain provisions in certain circumstances. (Status: 7/6/21 – Enacted)

### NEW YORK

[A 10723](#) – Specifies that services delivered via telehealth shall be entitled to reimbursement on the same basis and to the same extent as if such services were provided in person.

(Status: 7/1/20 – Referred to Assembly Health Committee)

## IOWA

[SF 2261](#) – Requires mental health professionals providing services via telehealth in a public school to establish a provider–patient relationship with the student receiving services. The relationship may be established through telehealth if the standard of care does not require an in–person encounter and in accordance with evidence–based standards of practice and telehealth practice guidelines that address the clinical and technological aspects of telehealth, and the student’s parent or guardian is present. It also sets specific requirements for schools providing access to behavioral health services via telehealth and requires payment for behavioral health services, including those delivered via telehealth in a school. (Status: 6/29/20 – Signed by Governor)

## COLORADO

[SB 20–212](#) – Requires that a carrier shall not impose specific requirements on the use of telehealth, such as specific technology or requiring that there is an established patient–provider relationship. (Status: 6/19/20 – Passed House & Senate. Sent to Governor)

## TENNESSEE

[HB 1699](#)– Alters reimbursement requirements for telehealth delivered services, including requiring reimbursement of a facility fee. It also requires coverage of remote patient monitoring if covered by Medicare. (Status: 6/18/20 – Passed Senate)

## KANSAS

[HB 2016](#) – Allows an out–of–state physician to practice telemedicine to treat patients located in Kansas under certain circumstances. (Status: 6/9/20 – Enacted)