

Compliance Today – July 2022 Telehealth regulatory oversight and enforcement trends

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One of the notable impacts of the COVID-19 pandemic on the healthcare industry has been the boom in services provided via telehealth. This boom is in part due to temporary flexibilities applied at both the state and federal levels to ease barriers to the provision of, and reimbursement for, telehealth services, and in part due to increased consumer demand to access services from the convenience of their home (further building on a trend of new digital health platforms offering direct-to-consumer services in recent years). For example, a recent study from the U.S. Department of Health & Human Services (HHS), released in December 2021, showed a 63-fold increase in the portion of Medicare visits conducted via telehealth during the pandemic, from approximately 840,000 in 2019 to 52.7 million in 2020.^[1]

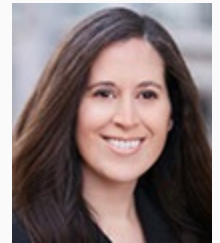
In addition to the growth in the delivery of services via telehealth generally, as patients and providers alike have become more familiar with telehealth technology, there is an increased interest from health systems in permitting pre-procedure and post-procedure visits, as well as other follow-up care, across state lines. Where patients would otherwise travel for specialized care, this type of change would allow them to remain home for at least some services received.

Not surprisingly, because there has been substantial expansion of telehealth as a new means to deliver healthcare services, and related substantial increase in payer reimbursement, there has also been a substantial uptick in regulatory oversight and enforcement activity. This heightened scrutiny will likely continue, as telehealth services have become recognized as an important tool in the delivery of healthcare services, particularly as a means to remove barriers and promote access to care.

In recent years, audits and enforcement activities have been underway by federal and state agencies, including the HHS Office of Inspector General (OIG), the U.S. Department of Justice (DOJ), and various state medical boards. The following is a summary of some of these key activities and trends.

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