

TELEHEALTH AND RURAL HEALTH PROVISIONS IN COVID-19 RELIEF LEGISLATION

INTRODUCTION

Through the three COVID-19 relief packages passed to date, Congress has progressively removed barriers to telehealth services during the Coronavirus pandemic and cleared additional policies to protect access to rural health care services. The first Coronavirus bill laid the foundation for lifting long-standing Medicare telehealth restrictions and directed critical funding to rapidly support these transitions in care delivery. While Congress did not address rural health care programs or telehealth in the second relief package beyond technical corrections to the previously enacted telehealth provisions, the third bill contained a massive infusion of funding and regulatory relief for such services. This included funding for community health centers and other rural health supports, extensions of existing telehealth and rural health infrastructure programs, and new flexibilities for Medicare telehealth and home health services.

The administration is working to disperse funding and implement the new telehealth flexibilities afforded by the COVID packages. It is likely, however, that Congress may be called upon to address additional challenges for telehealth and rural healthcare providers that could emerge as the health care and economic crises persist. Further, the temporary relaxing of telehealth policies is advancing a paradigm shift that will present new questions for Congress and the administration to address once the public health emergency subsides.

The remainder of this memo discusses the various statutory policies cleared to date.

CORONAVIRUS I

The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 ([H.R. 6074](#)) focused on preparedness and response efforts to the growing COVID-19 threat in the U.S. Expanded telehealth flexibilities ensure health providers can safely administer care and maintain access to health care for all. The package authorizes the HHS Secretary to waive telehealth restrictions in the Medicare program during the COVID-19 outbreak. Medicare providers will be able to furnish telehealth services to beneficiaries regardless of geography for the duration of the outbreak.

CORONAVIRUS II

The Families First Coronavirus Response Act ([H.R. 6201](#)) included no provisions directly beneficial to telemedicine or rural health providers. It did include technical corrections to the telehealth provisions enacted in the first bill.

CORONAVIRUS III

The third COVID-19 relief package offers a litany of provisions to shore up rural health care programs and services and telehealth. The Coronavirus Aid, Relief, and Economic Security (CARES) Act ([S. 3548](#)) includes funding for community health centers to expand telehealth and rural health infrastructure, and provisions to allow and expand the use of telemedicine and home health services. A full list of provisions impacting providers is included below:

Telehealth and Rural Health Provisions

Provision	Coronavirus III
Funding for Community Health Centers	The CARES Act provides \$1.32 billion in supplemental funding for FY2020 to community health centers on the front lines of testing and treating patients for COVID-19.
Telehealth	<p>The CARES Act reauthorizes Health Resources and Services Administration (HRSA)'s Telehealth Network and Telehealth Resource Centers Grant Programs. These programs promote the use of telehealth technologies for health care delivery, education, and health information services.</p> <p>The bill allows a high-deductible health plan (HDHP) with a health savings account (HSA) to cover telehealth services prior to a patient reaching the deductible.</p> <p>The CARES Act broadens the authority of the Secretary of Health and Human Services (HHS) to waive the telehealth requirements of section 1834(m) of the Social Security Act during the COVID-19 emergency period. This would enable Medicare beneficiaries to access 24 telehealth, including in their home, from a broader range of providers, reducing COVID-19 exposure.</p> <p>The bill would allow, during the COVID-19 emergency period, Federally Qualified Health Centers (FQHCs) (including Community Health Centers (CHCs)) and Rural Health Clinics (RHCs) to furnish telehealth services to Medicare beneficiaries, including in the beneficiaries' homes to avoid potential exposure to COVID-19. Medicare would be required to pay FQHCs and RHCs for these telehealth services based on payment rates similar to the national average payment rates for comparable telehealth services under the Medicare Physician Fee Schedule. This section would also exclude the costs associated</p>

Provision	Coronavirus III
	<p>with these telehealth services from both the FQHC prospective payment system and the RHC all-inclusive rate calculations.</p> <p>The bill would eliminate a requirement during the COVID-19 emergency period that a nephrologist conduct some of the required periodic evaluations of a patient on home dialysis face-to-face.</p> <p>The bill allows, during the COVID-19 emergency period, qualified providers to use telehealth technologies in order to fulfill the hospice face-to-face recertification requirement.</p> <p>The CARES Act requires the Secretary of HHS to issue clarifying guidance encouraging the use of telecommunications systems, including remote patient monitoring, to furnish home health services consistent with the beneficiary care plan during the COVID-19 emergency period. Guidance (rule, TRP memo) fulfilling this requirement was published on March 31, 2020.</p>
Rural Health Care and Development	<p>The CARES Act reauthorizes HRSA grant programs to strengthen rural community health by focusing on quality improvement, increasing health care access, coordination of care, and integration of services. These include the Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement grant programs. Includes \$185 million to support rural critical access hospitals, rural tribal health and telehealth programs, and poison control centers.</p> <p>The bill provides \$25 million through the Department of Agriculture to support the Distance Learning and Telemedicine program. This increase will help improve distance learning and telemedicine in rural areas of America. Additionally, \$100 million is provided to the ReConnect program to help ensure rural Americans have access to broadband, the need for which is increasingly apparent as millions of Americans work from home across the country.</p>
Home Health Care	<p>The CARES Act eliminates a requirement during the COVID-19 emergency period that a nephrologist conduct some of the required periodic evaluations of a patient on home dialysis face-to-face, instead allowing the evaluations to be done via telehealth and allowing patients to stay home.</p> <p>The bill would allow physician assistants, nurse practitioners, and clinical nurse specialists to order home health services for beneficiaries, reducing delays and increasing beneficiary access to care in the safety of their home.</p>
Expansion of the Medicare Hospital Accelerated	<p>The CARES Act expands, for the duration of the COVID-19 emergency period, an existing Medicare accelerated payment program. Specifically, qualified facilities will be able to request up to a six-month lump sum or periodic payment. Inpatient acute care hospitals, children's hospitals, and certain cancer</p>

Provision	Coronavirus III
Payment Program	hospitals will be eligible for the full six-month lump sum. This accelerated payment is based on net reimbursement represented by unbilled discharges or unpaid bills. Most hospital types may elect to receive up to 100 percent of the prior period payments, with Critical Access Hospitals (CAH) able to receive up to 125 percent. Finally, a qualifying hospital will not be required to start paying Medicare back for four months after receiving the first payment. Hospitals will have at least 12 months to complete repayment without paying interest. However, after that 12-month period, advance funds accrue interest at a 10.25 percent annual rate.
Small Business Loans via the “Paycheck Protection Program”	The legislation makes available loan opportunities for organizations with less than 500 total employees (i.e., both full time and part time employees). These loans may be up to \$10 million and may be forgivable. They may be used to pay salaries, leave and health benefits, rent, and/or retirement obligations, among other uses. Both for-profit and non-profit hospitals will be eligible for these loans; however, affiliation rules will apply. The affiliation rules are intended to determine whether the organization, taking into account the “totality of circumstances,” is operating as part of a larger organization and therefore not considered a small business, which will be evaluated on a case-by-case basis. The loans are intended to prioritize entities in underserved and rural markets.
Work Geographic Index Floor	The CARES Act increases payments for the work component of physician fees in areas where labor cost is determined to be lower than the national average through November 30, 2020.
Delay of DSH Reductions	The CARES Act delays scheduled reductions in Medicaid disproportionate share hospital payments through November 30, 2020.
Extension for Community Health Centers, the National Health Service Corps, and Teaching Health Centers	The CARES Act extends the authority for programs supporting community health centers, the National Health Service Corps, and teaching health centers that operate GME programs (THCGME) at current funding levels through November 30, 2020.
FCC COVID-19 Telehealth Program	The bill provides \$200 million for the Federal Communications Commission’s COVID-19 Telehealth Program. This program will help providers purchase technology to provide telehealth services to patients, including by footing the entire bill of technology purchases. FCC will award grants to eligible providers who will use the funds to expand telehealth capability, free up resources for COVID-19 patients, and reduce exposure risk.
Public Health and Social Services	The bill provides over \$27 billion for the PHSSEF’s core function, which is project funding for HHS. This may include addressing telehealth access and infrastructure needs for a variety of eligible provider types.

Provision	Coronavirus III
Emergency Fund	
VA Facilities and IT Support for Telemedicine	<p>The bill provides \$3.1 billion for VA to purchase, staff, and equip temporary sites of care and mobile treatment centers to deal with this pandemic. It allows for remodeling to VA facilities and state-run veterans homes to address the needs of veterans being treated for coronavirus. The bill includes funding for VA to expand the capacity on existing IT networks to address the demand in services and broadens VA's tele-ICU and teleradiology capabilities. It further enhances the capability for telehealth visits, allowing more veterans to receive care from home, and for providers at home to continue to treat patients through technology. Additionally, it facilitates VA employees working from home to ensure benefits can still be processed.</p> <p>The CARES Act enhances health and housing initiatives for homeless veterans, including increased use of telehealth for programs with VA case managers, temporarily eliminating funding limits for programs providing direct support services to homeless veterans, and providing flexibility to serve veterans in those programs.</p> <p>The CARES Act permits VA to enter into agreements with telecommunications companies to provide broadband for veterans in support of providing telehealth services for mental health.</p>
Indian Health Service	<p>The CARES Act provides \$1.032 billion to support the Indian Health Service (IHS) during the pandemic, including expanded support for medical services, equipment, supplies and public health education for IHS direct service, tribally operated and urban Indian health care facilities; expanded funding for purchased/referred care; and new investments for telehealth services, electronic health records improvement, and expanded disease surveillance by tribal epidemiology centers.</p>