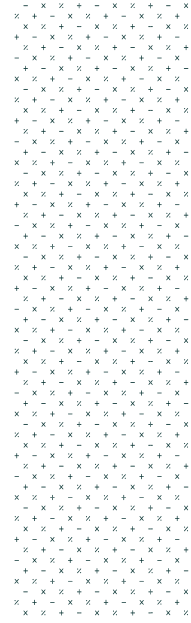




# Telehealth Compliance

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## Introductions



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## Today's Topics

- Current State with Telehealth
- Government Enforcement Activity
- Billing and Reimbursement Issues
- Ideas on how to Audit or Monitor
- Proactive Compliance

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*Defining Telehealth*

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## Telehealth

- Part B services that a practitioner provides to an eligible beneficiary through a telecommunications system.
- Covers telehealth services provided through live, interactive videoconferencing between a beneficiary located at a certified rural originating site and a practitioner located at a distant site.
- An eligible originating site must be an authorized medical facility, not a beneficiary's home or office.

- <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/>

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## Telehealth (cont.)

- Generally pays for telehealth services only when an interactive audio and video telecommunications system is used, permitting real-time communication between the beneficiary at the originating site and the practitioner at the distant site.
- Under certain circumstances, Medicare will pay for telehealth services when furnished through an asynchronous "store and forward" system.

- <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/>

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## Four Requirements



- <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Telehealth-Services-Text-Only.pdf>

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## Telehealth – Recent

- Telestroke coverage
  - Effective January 1, 2019
  - Purposes of diagnosis, evaluation, or treatment of symptoms of an acute stroke
  - Removed requirements for geographic location and the type of originating sites where acute stroke telehealth can be furnished
- Prolonged preventive services
- Chronic care services

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## Telehealth – Recent

- Prescribing
  - Patient-provider relationship established in-person or
  - Provider exam meets “practice of telemedicine” exception
- Virtual check In (G2012)
  - “Brief communication technology-based service”
  - To cover non-face-to-face check ins with patient to assess whether the patient’s condition necessitates an office visit

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## Telehealth – not subject to telehealth restrictions

- Remote evaluation of pre-recorded patient information (G2010)
  - Established patients only
  - Involves the review of patient-generated still or video image plus subsequent communication time
- Interprofessional internet communication (99446-99449 & 99451, 99452)
  - Provided by consultative physician

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## Telehealth – Recent

- Remote kidney dialysis assessment
  - Add renal dialysis facilities and their home as originating sites
- Treatment of substance use disorder or co-occurring mental health disorder
  - No geographic restrictions as of July 1, 2019
  - Adds patient's home as originating site
- Management and counseling treatment for substance abuse disorder
  - Considering creating a bundled episode of care for management and counseling treatment



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# *Current Government Trends*

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## OIG Report – April 2018

- Spending increase from \$61,302 to \$17.6 million in 2015
- More than half of the claims did not have matching originating-site facility fee claims
- Focused on claims billed through a distant site that did not have corresponding originating site fee
- CMS did not ensure that
  - There was oversight to disallow payments for errors where telehealth claim edits could not be implemented,
  - All contractor claim edits were in place, and
  - Practitioners were aware of Medicare telehealth requirements

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## HealthIt.gov

- HRSA defines telehealth as the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration. Technologies include:
  - Videoconferencing,
  - The Internet,
  - Store-and-forward imaging,
  - Streaming media, and
  - Terrestrial and wireless communications.
- Telehealth is different from telemedicine as it refers to a broader scope of remote health care services than telemedicine.

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## Others

### World Health Organization (WHO)

- The delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for exchange of valid information for diagnosis, treatment and prevention of disease and injuries, research and evaluation, and for continuing education of health care providers, all in the interests of advancing health of individuals and their communities.

### American Telemedicine Association (ATA)

- Largely views telemedicine and telehealth to be interchangeable terms, encompassing a wide definition of remote healthcare, although telehealth may not always involve clinical care.

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## Government Efforts

- Telehealth Services factsheet on Medicare Learning Network  
<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/TelehealthSrvcsfctst.pdf>
- HRSA – Medicare Telehealth Payment Eligibility Analyzer  
<https://data.hrsa.gov/tools/medicare/telehealth>

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## Requirements for Treating Additional Telehealth Benefits as Basic Benefits

1. In-person services upon request
2. Use of contract providers
3. Disclosure of the availability of in-person services
4. Provider selection and credentialing
5. Information provided to CMS upon request
6. Differential cost sharing



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## Open Issues

1. Advising enrollees of availability of in-person services
2. Provider directories
3. Evidence of coverage
4. MA network adequacy policies



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## What are the risks?



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## Potential Risk Areas

### Some states:

- Require an established patient relationship as a condition of reimbursement
- Require a telepresenter physically present with patient receiving care from a distant-site provider
- Limit the frequency Medicaid patients can receive telemedicine care
- Impose geographic restrictions on telemedicine encounters
- Restrict coverage and reimbursement for store and forward, remote patient monitoring, or e-mail/fax/phone technologies

[https://www.lexology.com/library/detail.aspx?g=06ef8b54-06fc-4b4e-9811-41bd225a3b06&utm\\_source=lexology+daily+newsletter&utm\\_medium=email+body+general+section&utm\\_campaign=ahla+subscriber+daily+feed&utm\\_content=lexology+daily+newsletter+2018-12-24&utm\\_term](https://www.lexology.com/library/detail.aspx?g=06ef8b54-06fc-4b4e-9811-41bd225a3b06&utm_source=lexology+daily+newsletter&utm_medium=email+body+general+section&utm_campaign=ahla+subscriber+daily+feed&utm_content=lexology+daily+newsletter+2018-12-24&utm_term)

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## Beneficiary Location

Eligible originating sites must be:

- In a county outside of a metropolitan statistical area (MSA);
- In a rural health professional shortage area (HPSA) in a rural census tract; or
- An entity participating in a Federal telemedicine demonstration project that has been approved by (or receives funding from) the Secretary of Health and Human Services as of December 31, 2000.

- <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/>

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## Telehealth – Institutional

- The facility is a CAH that elected the Method II payment option, and the practitioner reassigned his or her benefits to the CAH; or
- The facility provided medical nutrition therapy (MNT) services.

- <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/>

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## Other

- Covered services - provision of unallowable services for telehealth  
(<https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes.html>)
- Modifiers
- Place of service
- Provider requirements

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## Fraud and Abuse Considerations - Billing Models

- Hub and spoke
- Alternative – engage ad-hoc basis
- Originating site bills and collects
- Telehealth provider bills directly

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## Fraud and Abuse Considerations-Reassignment

- Inter-jurisdictional reassignment rules
- Program integrity safeguards
- Different rules across different Medicare Administrative Contractors (MAC)



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## *Audit or Monitoring* — Competence, Identifying Issues, and Flagging for Further Review



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## How can we audit for this?

- Data mine
- Select sample
- Assess location and originating site
- Contact originating site providers to determine if beneficiary was present

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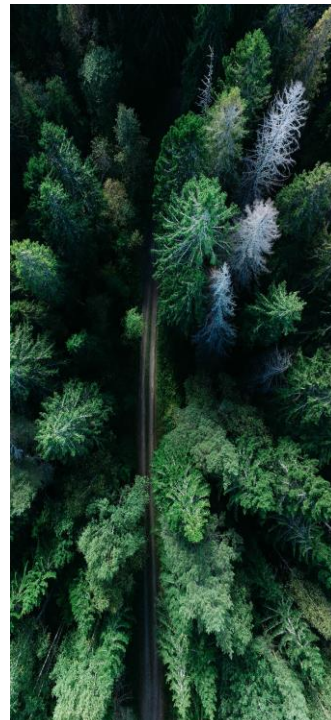


## How can we audit for this? (cont.)

- Determine if originating site addresses in HRSA database
- Match zip codes
- If RPM, ensure requirements are met
- Review documentation

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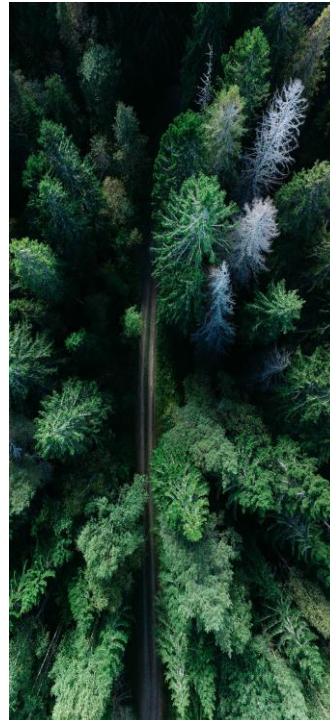


## Data Mine

- Obtain data for HCPCS code on listing
- All modifiers appended
- Determine which claims had modifiers

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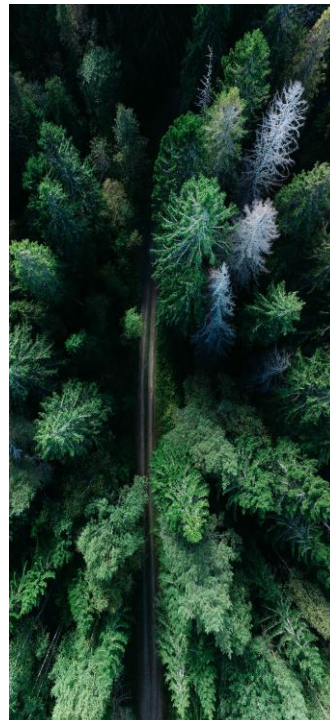


## Assess Use of Telehealth

- Obtain policies and procedures
- Brief description of service provided and communication means used to provide service
- Location of the practice from which the service was provided
- Location of the beneficiary when service was provided
- Distant site specialty and documentation supporting license

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## Documentation Review

- The service was initiated from an eligible originating site
- Originating site met requirements
- Institutional facility's distant site requirements (CAH and MNT)
- Individual providing the service was an authorized practitioner
- Place of service is "02"
- Service was provided through an allowable means, such as an interactive telecommunications system

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## Documentation Review (cont.)

- Service billed with a telehealth modifier and is a covered service per CMS listing
- Service was not provided outside the USA
- For RPM the following is present:
  - Patient informed in writing and consent filed
  - Face to face service within previous year where RPM initiated
  - Only billed once in 30 day period
- Documentation supports that telehealth service was performed

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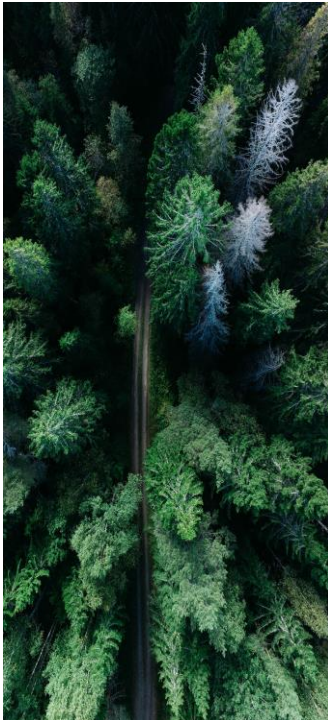


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## Compliance Review

-  Policies and procedures
-  Secure communications-Privacy and Security-  
HIPAA and State
-  Credentialing of providers
-  Informed consent – telehealth specific and  
potentially state
-  Corporate practice of medicine review
-  Potential technology related issues
-  Data ownership / retention / destruction
-  Documentation requirements

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## Questions? Now or later...

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