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Congress Extends Telehealth Coverage for 151 Days After PHE; Patients May Be at Home

By Nina Youngstrom

Congress has given telehealth services a new lease on life, at least for five months beyond the end of the COVID-19 public health emergency (PHE), in the \$1.5 trillion bill that funds the federal government through September and sends emergency aid to Ukraine.^[1] The bill extends Medicare coverage for telehealth services delivered in patients' homes, audio-only telehealth services and other flexibilities that are products of the PHE and its waivers. It was passed by the House March 9 and the Senate March 10 and is expected to be signed quickly by President Joe Biden.

"This is a huge vote for 'we like telehealth,'" said Allison Kassir, senior government relations advisor at King & Spalding in Washington, D.C. Without this measure in the 2022 Consolidated Appropriations Act (CAA), providers and patients faced an abrupt loss of broad Medicare coverage for telehealth services when the PHE ends, which could be as early as mid-April or maybe mid-July, depending on whether the improving COVID-19 picture again darkens. "It's a sharp cliff," Kassir noted. "Unless you legislate it, there is no gradual step down."

The telehealth provisions of the CAA guarantee Medicare coverage of core flexibilities for 151 days beginning the first day after the end of the PHE, Kassir said. "There is such bipartisan support for this," and in recent years, that's a rare thing, she noted. But telehealth "has been demystified." The two years of COVID-19 waivers of certain Medicare telehealth requirements "have been such a great test drive of this means of delivering care." The CAA provisions also set the stage for a standalone bill that could permanently expand telehealth services, although it's expected to include "guardrails" and other program integrity measures, Kassir said.

Congress covered a lot of telehealth ground. "The majority of PHE flexibilities are captured in this legislative extension," said Richelle Marting, an attorney in Olathe, Kansas. Perhaps the broadest stroke is the bill's definition of "originating site" to mean any site where an "eligible telehealth individual is located" when services are performed. Before the PHE, the originating site requirement generally restricted Medicare coverage to services delivered to patients at hospitals and other provider locations (not patient homes) by distant site practitioners (e.g., physicians). The COVID-19 waivers set aside the originating site requirement for telehealth services, allowing them to be delivered in patient homes, and the legislation would keep this flexibility going 151 days past the end of the PHE. Marting said it appears to be even more far-reaching than the waivers, allowing Medicare coverage of telehealth services delivered anywhere the patient is (e.g., a coffee shop, the patient's car, a library), solving many providers' concerns about whether these locations qualify as "home" under current PHE waivers.

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