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House Extends Telehealth Coverage, Senate Expected to Follow; There May Be Snags With MPFS

By Nina Youngstrom

There's a good chance Medicare coverage of telehealth services, including audio-only telehealth services, will continue through Dec. 31, 2024, a hard-and-fast date independent of whether HHS continues to extend the COVID-19 public health emergency (PHE), experts say.

The U.S. House of Representatives on July 27 passed the Advancing Telehealth Beyond COVID-19 Act of 2022 (H.R. 4040), the Senate will almost certainly pass a companion bill before it adjourns for the year and President Joe Biden is "strongly supportive," said Allison Kassir, senior government relations advisor with King & Spalding in Washington, D.C.^[1] But senators probably won't turn to the bill before November. "It's unlikely the senate will take this up in September, when the legislative calendar is quite full," Kassir said. "This feels like an after-the-election, lame-duck package," she explained, referring to the midterm election in November. There's no rush because Congress already extended Medicare telehealth coverage for 151 days after the PHE ends in the 2022 Consolidated Appropriations Act (CAA),^[2] and the PHE's current extension lasts until Oct. 13 and could be extended again, Kassir noted. That gives providers plenty of time while the legislative wheels turn—except for one possible wrench in the works.

It's unclear how the 2023 Medicare Physician Fee Schedule (MPFS) final rule will maneuver its telehealth provisions and timelines if they conflict with the House bill, said Richelle Marting, an attorney in Olathe, Kansas. The MPFS rule is written assuming a lot of telehealth coverage rules will revert to pre-PHE policy 152 days after the PHE ends, she noted. "It's unclear how Medicare will handle many of the telehealth coverage policies in its 2023 final rule if we don't know whether" expanded telehealth coverage ends 151 days after the PHE ends or on Dec. 31, 2024."

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