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Another Extension of Telehealth Waivers Looks Promising; OCR May Update Security Rule

By Nina Youngstrom

Congress will probably authorize Medicare to keep telehealth coverage rolling next year and maybe forever along the lines of the COVID-19 flexibilities, according to Kim Brandt, former principal deputy administrator of CMS. That would mean continued payments for services delivered everywhere by audiovisual and audio-only technology, she said. They've already been kept alive through the end of this year by the 2023 Consolidated Appropriations Act (CAA). "We'll definitely see action in Congress on telehealth," said Brandt, who also was the Senate Finance Committee's general counsel for five years, at HCCA's Compliance Institute April 16. "The expectation is they will be extended again or be made permanent."

The CAA removed rural area requirements and expanded originating sites, which allows Medicare to pay for certain covered telehealth services everywhere in the country and in patient homes. The law also covers audio-only telehealth services, added physical, occupational and speech therapists as distant site practitioners, continued payments for telehealth services delivered by rural health clinics and federally qualified health centers and delayed the in-person visit requirement for telebehavioral health services, among other things. Congress also is expected to extend the Acute Hospital Care at Home program beyond 2024, said Brandt, a partner at Tarplin, Downs & Young LLC.

But time is of the essence for enacting telehealth and other health care legislation because several lawmakers who are knowledgeable in this area—including members of "the Doctors Caucus"—are leaving Congress, she said. "Most centrist moderates in the House are retiring. That's huge. There are new people behind them who don't understand" things like the sustainable growth rate and site neutrality. "It will be a real challenge," Brandt said. "The loss of these people leaves a huge knowledge gap." Because it will be harder to pass meaningful health legislation when they're gone, Brandt said there's a push to get as much accomplished while they're still here.

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