

# Report on Medicare Compliance Volume 30, Number 2. January 18, 2021

## Commercial Payer, Medicare Telehealth Audits Are Underway, With Some Surprises

---

By Nina Youngstrom

In an audit twist that shows the prevalence of telehealth services because of COVID-19, some reviews are underway of in-person home infusion, with auditors questioning why home infusion physician practices aren't delivering more follow-up services by telehealth, an attorney said.

"There's a lot of scrutiny of how complex home infusion services are provided," said attorney Stephen Bittinger, with K&L Gates in Washington, D.C. "I have seen a significant uptick." Pandemic lockdowns in geographic areas played a role in an auditor's skepticism about the number of in-person visits to infusion patients. From the auditor's perspective, the nurses could use telehealth for lower-cost follow-up visits in between infusions. "Reviewers are going to be examining the context of delivery of services and questioning why providers weren't choosing less expensive telehealth options," Bittinger said. In this case, the auditor works for a commercial payer.

That is one type of telehealth audit underway, less than a year after audio-only and audiovisual visits became a lifeline—literally for patients and financially for providers, as COVID-19 cast its shadow across the country. Providers have been in uncharted territory. Medicare rapidly expanded coverage and accepts claims for telehealth services delivered to patients by providers in other states during the public health emergency (PHE) as long as they're licensed in one state (although they're still subject to state laws). As a result, there's a lot of room for error.

"It's going to be the most incredible wave of auditing we have ever seen," Bittinger said. "It's going to be wild for the next couple of years. There were so many shifts in who delivers services and changes in services."

### **Don't Forget to Document Time**

Hospitals also are doing chart reviews internally to identify noncompliance with coding and documentation requirements. "We have done billing and coding audits and are seeing areas for improvement," said Chris Anusbigian, a specialist leader with Deloitte & Touche in Detroit. For example, there have been Medicare claims billed with the telehealth modifier 95 even though the documentation within the encounter gives the impression the services were provided in person, she said. Sometimes the notes are agnostic about whether the services were delivered in person, by phone or by audiovisual technology, she said. Although Medicare pays the same for evaluation and management (E/M) services whether they're delivered in person or via telehealth during the COVID-19 PHE, "the reportable CPT codes are different for audio vs. audiovisual. It's important to document how the service was provided (in person, audio or audiovisual)," said Leslie Slater, a specialist leader at Deloitte Advisory in New York City. "Additionally, how the E/M levels are assigned is different for telehealth vs. an in-person visit." For an audiovisual telehealth visit, the E/M codes are assigned based on time or medical decision-making. In contrast, before new E/M coding guidelines took effect Jan. 1, 2021, an in-person visit required documentation of the E/M components—history, physical exam and medical decision-making (or time).

Documentation of the setting may also be important for medical legal reasons, Slater said. A provider's

---

documentation of the physical exam may be different based on how the visit was conducted because “components of a physical exam may not be able to be conducted during a telehealth visit, and there is more reliance on the patient’s description of what is going on,” she noted.

Some services are exclusively billed based on time, such as psychotherapy, physical, speech and occupational therapy, and audio-only telehealth, Anusbigian said. With these telehealth visits, providers should consider putting the start and stop times in the medical record, not just the total time. “It’s a good internal control to support billing,” she said. Also, patients notice if the explanation of benefits form has charges for more hours of psychotherapy than they know they received.

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)