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Telehealth and HIPAA compliance during the pandemic and beyond

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The pandemic has had a significant impact on our lives. Zoom meetings, online classes, cancelled vacations, and virtual get-togethers have become the new normal. The pandemic has been a big challenge for the healthcare industry, too. During the early months of the pandemic, in-person visits to ambulatory practices decreased by nearly 60%.^[1] Hospitals and providers were also forced to innovate rapidly to handle various challenges, from facing a shortage of personal protective equipment (PPE) to dealing with the surge of COVID-19 patients. To address these challenges, hospitals and providers adopted new technologies in a matter of weeks, something that usually took several years in the past. Social distancing and shelter-at-home policies forced providers to use telehealth as the primary mode of interaction with patients. Patients embraced telehealth services, too, because it provided a safer alternative to in-person visits.

What is telehealth?

A video call with our doctor is the image most of us have when we think of telehealth. Telehealth is more than video consultation. Telehealth modalities include live videoconferencing, remote patient monitoring, healthcare, and education provided through mobile device and sharing of health records electronically between healthcare professionals.

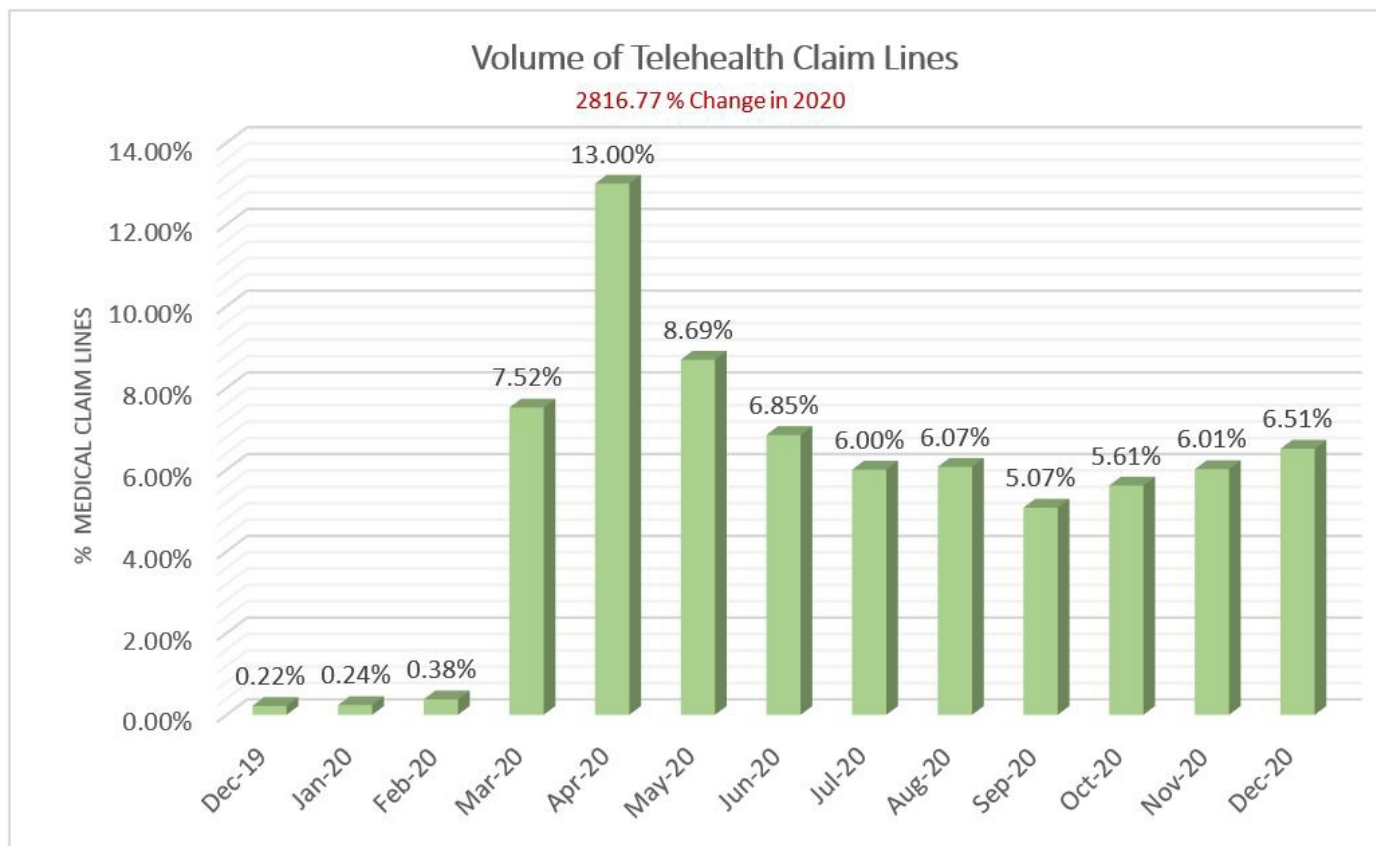
People also use the terms telemedicine and telehealth interchangeably, but they are different. Telemedicine refers to clinical services like diagnosis, consultation, treatment, etc. offered remotely, usually in real time by a licensed practitioner. Telehealth is a broader term that includes telemedicine and more. Telehealth refers to all healthcare interactions done remotely, including clinical services and nonclinical services like provider training, public health activities, etc.

Rapid adoption of telehealth during the pandemic

During the pandemic, US federal government enacted policies that encouraged adoption of telehealth services. On March 17, 2020, the U.S. Department of Health & Human Services (HHS) enacted policies like increasing patient populations eligible for telehealth, expanding coverage and reimbursement policies, increasing providers eligible for telehealth, and relaxing the Health Insurance Portability and Accountability Act (HIPAA) regulations to allow adoption of commercially available technologies for video visits.^[2]

The unprecedented innovation combined with the HHS policy changes dramatically increased the use of telehealth. From December 2019 to December 2020, the volume of telehealth claim lines increased 2,816.77% nationally.^[3] A claim line is an individual service or procedure listed on an insurance claim.

Figure 1: Volume of telehealth claim lines in 2020



What limited the widespread use of telehealth before the pandemic?

In 2013, the US federal government updated HIPAA to allow technology companies like Google, Apple, Skype, etc. to be treated as business associates of doctors and insurers.^[4] To be HIPAA compliant, these companies were required to store and share patient data in a safe and secure way.

While the law allowed tech companies to be part of telehealth services, it also required them to go through several steps to be HIPAA compliant. For example, the tech companies and their subcontractors were required to enter into a business associate agreement with every doctor or practice using their technology. These contracts also required the tech companies to address several other requirements to be HIPAA compliant.

Before the pandemic, Medicare paid doctors and hospitals for telehealth only in limited circumstances, such as for appointments in specific rural areas or to treat specific conditions. In addition to HIPAA, providers also had to comply with various state-specific telehealth requirements. All these factors limited widespread use of telehealth.

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