

## Compliance Today – May 2024



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### The compliance officer's challenge: Riding the technological wave in healthcare

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by Melissa Andrews

I was cleaning out my research collection a couple months ago. One that caught my eye was an article about telehealth. This article was published in 2018, and the author's perspective made me laugh. In the piece, the author discussed telehealth and how they did not believe it would ever catch on. They reasoned that it was not real healthcare, insurance would never pay for it, and patients would not want to talk to their providers over the phone because they wanted to see them face to face. Oh, how times have changed!

#### Telehealth and remote patient monitoring

Not only do some patients prefer telehealth visits to in-person visits, but telehealth has also given patients in rural areas access to medical care they previously did not have. Insurance companies have joined the bandwagon by taking advantage of the cheaper reimbursement rates and pushing telehealth use for better care coordination. While the COVID-19 pandemic was a big driver behind this push, I believe society's increasing acceptance of technology-aided care should get most of the credit. As a compliance officer, I see technology changing healthcare right before my eyes, and I cannot be the only one having difficulty keeping up.

Regulators are also struggling to keep up with this rapid pace. Several guidance materials about the appropriate use of technology—specifically in healthcare—are being released from different government agencies. For example, members of the House of Representatives are asking the Centers for Medicare & Medicaid Services (CMS) to investigate the use of artificial intelligence (AI) in reducing claim denial rates.<sup>[1]</sup> This is a great idea, and the benefits are undeniable. However, a previous payer tried using AI in claims processing with a different result. UnitedHealth Group (UHG) is currently being sued by members stating that UHG used AI to make life-altering decisions about patient care. The lawsuit says that the algorithm used to determine eligibility had parameters that were too rigid and unrealistic causing many individuals to receive denial of care. According to court documents, 90% of these denials were overturned through appeals.

Technology is also being used in treating patients. While some merely use AI as a resource, others use AI to complete documentation and assist in making diagnoses. Wellness apps, heart monitors, and other devices are used by providers in real-time to make treatment decisions. This has proven to be lifesaving and cost-effective for patients; however, there are also many concerns, such as protecting patient's data, securing devices against cyberattacks, documenting data from device applications in the patient's medical record, and determining whether the use of the data from devices meets payer requirements for reimbursement.

CMS is trying to keep up with the technology used to replace in-person monitoring but can still fall short. If a specific evaluation and management or cardiac event detection monitoring code requires a hospital inpatient

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visit, then the provider cannot use data gathered—be it outpatient or telehealth—from an electronic device or AI without risking reimbursement at best and a fine at worst.<sup>[2]</sup> As previously mentioned, telehealth has become an excellent way for patients to receive cost-effective care if your facility can meet all the requirements. This includes meeting security and privacy requirements and all regulatory telehealth requirements, including prescribing practices for each visit.

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