Expansion of telehealth in Medicare

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MEDPAC

Context: Medicare has rapidly expanded telehealth during the public health emergency (PHE)

- Providers have rapidly adopted telehealth during the PHE
- Advocates assert that telehealth can expand access to care and reduce costs relative to in-person care
- Others contend that telehealth services have the potential to increase use and spending under a FFS payment system
- Telehealth has recently been implicated in several fraud cases
- Current evidence on how telehealth services impact quality of care is limited and mixed

Policy option for permanent telehealth expansion

- Focus discussion on telehealth expansions for all FFS clinicians
  - In the future, may discuss additional telehealth flexibilities for clinicians in advanced-alternative payment models
- Present potential policy option for making some expansions permanent for all FFS clinicians after the PHE
  - Medicare's telehealth policies for physician fee schedule (PFS) before PHE
  - Telehealth expansions under PHE

Policy option: Cover certain telehealth services provided to all beneficiaries and in the beneficiaries' homes

Pre-PHE	Beneficiaries in rural areas and certain originating sites
During the PHE	All beneficiaries and in beneficiaries' homes
Post-PHE	All beneficiaries and in beneficiaries' homes

Rationale

- Clinicians and beneficiaries in focus groups supported expanded access to telehealth visits with a balance of in-person visits
- Beneficiaries with chronic conditions, who constitute most Medicare beneficiaries, could benefit from at-home telehealth visits
- Note that direct-to-consumer telehealth companies would be able to bill for telehealth services for new and established patients, which raises concerns about spending and care fragmentation

MEDPAC Note: PHE (public health emergency). Illustrative option; for discussion purposes only.

Policy option: Cover many, but not all, of the telehealth services paid for during the PHE

Pre-PHE	Medicare paid for about 100 telehealth services
During the PHE	Medicare added about 140 additional services (e.g., emergency department visits)
Post-PHE	Many, but not all expanded services

Rationale

- Medicare would cover telehealth services for which access is limited and that either improve or do not reduce quality of care, such as mental health services
- Medicare would not cover high-touch services, where there are no major access concerns, and/or there are quality concerns (e.g., physical and occupational therapy)

Note: PHE (public health emergency). Illustrative option; for discussion purposes only.

Policy option: Eliminate temporary coverage of audio-only services after the PHE

Pre-PHE	Limited to virtual check-ins and chronic care management provided by telephone communication
During the PHE	Medicare pays for certain audio-only visits (e.g. E&M, behavioral health)
Post-PHE	Audio-only services covered during the PHE would no longer be paid

Rationale

- Difficult to conduct a full medical evaluation without the clinician being able to see the patient, raises quality concerns
- Existing payment policies already cover some telephone communication between clinicians and beneficiaries
- Allowing clinicians to bill for audio-only visits will likely lead to additional services and increase spending for the program and beneficiaries

Note: PHE (public health emergency), E&M (evaluation and management). Illustrative option; for discussion purposes only.

Policy option: Pay lower rates for telehealth services than for in-person services

Pre-PHE	Rate for facility-based services (less than the non-facility rate)
During the PHE	Rate is the same as if the service were furnished in person (facility or non-facility rate)
Post-PHE	Pay lower rates for telehealth services than in-person services

Rationale

- Telehealth services probably involve lower practice costs than in-office services (lower costs for physical space, supplies, equipment, staff time)
- Paying same rates for telehealth and in-office services could distort prices and lead clinicians to favor telehealth services over in-person services

Note: PHE (public health emergency). Illustrative option; for discussion purposes only.

Policy option: Require HIPAA compliance for telehealth technology

Pre-PHE	Telehealth services must be provided using HIPAA-compliant products
During the PHE	No penalties against providers for noncompliance with HIPAA
Post-PHE	Telehealth services must be provided using HIPAA-compliant products

Rationale

- Enforcing HIPAA would help protect patient privacy and reduce the risk of identity theft
- Most clinicians in our summer focus groups were already using low-cost, HIPAA-compliant applications

Note: PHE (public health emergency), HIPAA (Health Insurance Portability and Accountability Act). Illustrative option; for discussion purposes only.

Policy option: Require cost sharing for telehealth services

Pre-PHE	Same cost-sharing liabilities for telehealth services as in-person services
During the PHE	Clinicians permitted to reduce or waive cost sharing for telehealth services
Post-PHE	Same cost-sharing liabilities for telehealth services as in-person services

Rationale

- Requiring beneficiaries to pay a portion of the cost of telehealth services could reduce possibility of overuse
- Telehealth services have a higher risk of overuse than in-person services because they are more convenient to access

Note: PHE (public health emergency). Illustrative option; for discussion purposes only.

Policy option: Other safeguards to protect Medicare and beneficiaries from unnecessary spending and potential fraud

Safeguard	Rationale
Study whether to set frequency limits for certain telehealth services	• Could set limits on telehealth services that experience rapid growth or have evidence of inappropriate use • Need to examine use of telehealth after the PHE to determine which services should be subject to limits
Require clinicians to provide a face-to-face visit before they order high-cost DME and clinical lab tests	• Some telehealth companies have been implicated in large fraud cases involving unnecessary DME, genetic tests, and pain medication • Would prevent clinicians from ordering expensive DME or lab tests during telehealth visits

MEDPAC Note: PHE (public health emergency), DME (durable medical equipment). Illustrative option; for discussion purposes only.

Policy option: Other safeguards to protect Medicare and beneficiaries from unnecessary spending and potential fraud, cont.

Safeguard	Rationale
Prohibit "incident to" billing for telehealth services provided by any clinician who can bill Medicare directly	• "Incident to" billing: Medicare pays full rate for services billed by clinicians but performed by other individuals • Any clinician who can bill Medicare directly would have to bill under their own billing number when performing a telehealth service • Expands on our prior recommendation on "incident to" services (2019) • Would give CMS more information about the clinicians who provide telehealth and help CMS prevent overuse

Note: PHE (public health emergency). Illustrative option; for discussion purposes only.

Policy option: Other safeguards to protect Medicare and beneficiaries from unnecessary spending and potential fraud, cont.

Safeguard	Rationale
Prohibit clinicians from billing for "incident to" services if they provide direct supervision remotely	• Billing clinician must provide *direct supervision* for "incident to" services (must be present in office suite and immediately available to furnish assistance and direction) • But CMS allows clinicians to provide direct supervision *remotely* during PHE • Remote supervision could pose safety risk to beneficiaries because clinicians are not physically present to provide assistance and direction • Remote supervision could enable a clinician to "supervise" multiple services in multiple settings at the same time, posing quality and cost concerns

Note: PHE (public health emergency). Illustrative option; for discussion purposes only.

Discussion: Policy option for permanent telehealth expansion after the PHE

- Cover certain telehealth services provided to all beneficiaries and in the beneficiaries' homes
- Cover many, but not all, of the telehealth services paid for during the PHE
- Eliminate temporary coverage of audio-only services
- Pay lower rates for telehealth visits than for in-person services
- Require HIPAA compliance for telehealth technology
- Require cost sharing for telehealth services
- Other safeguards to protect Medicare and beneficiaries:
  - Study whether to set frequency limits for certain telehealth services
  - Require clinicians to provide a face-to-face visit before ordering costly DME and lab tests
  - Prohibit "incident to" billing for telehealth services provided by any clinician who can bill Medicare directly
  - Prohibit clinicians from billing for "incident to" services if they provide direct supervision remotely

Note: Illustrative option; for discussion purposes only.