

ARIZONA
TELEMEDICINE
PROGRAM



Winter 2021 Telehealth Policy Updates

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**Arizona Telemedicine Program /
Southwest Telehealth Resource Center**

Federal COVID-19 Telehealth Changes: Recap

- **Congress** – CARES Act
- **HHS** – Multiple waivers, including 1125 licensure waivers
- **CMS** – Medicare flex, State FIMV enforcement discretion
- **OCR** – HIPAA enforcement discretion
- **DEA** – Telemedicine Rx, remote-only Buprenorphine
- **OIG** – AKS & CMP flexibilities
- **FDA** – relaxed certain device enforcement
- **DOD TRICARE**: audio-only, no cost-sharing, international

FOR COVID-19 PUBLIC HEALTH EMERGENCY ONLY

PHE Time Frame

- Renewed for another 90 days effective tomorrow (1/21)
- Expectation is it will run through 2021 (ATA EDGE media panel) due to at least 4 new COVID variants



ATA EDGE media panel, Jan. 12, 2021: Sarah-Lloyd Stevenson, Mohana Ravindranath, Eric Wicklund, Susan Dentzer

Fall Congressional Action (Sample)

Consortium Pushes Telehealth Freedoms for Substance Abuse Treatment

A new Health Affairs blog urges the federal government to continue telehealth waivers for substance abuse treatment during the COVID-19 emergency and asks for permanent changes to safeguards around the use of buprenorphine.



Source: ThinkStock

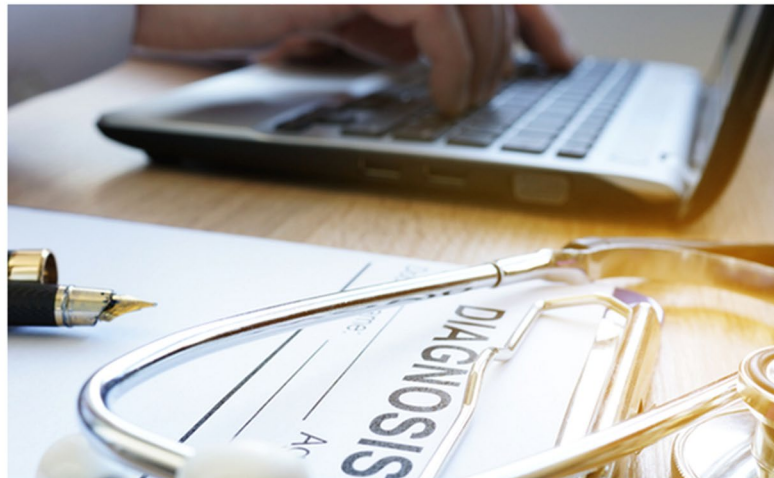
By Eric Wicklund



September 18, 2020 - A group of clinicians and public health experts is pressing the federal government to make permanent telehealth policy changes that would improve access to care for people undergoing substance abuse treatment.

New Bill Looks to Mandate Payer Coverage for Telehealth Services

A bill introduced last week on Capitol Hill would prompt payers to cover any telehealth services if those services are also furnished in person.



Source: ThinkStock

By Eric Wicklund



September 21, 2020 - The latest bill introduced on Capitol Hill aims to level the playing field for payers by ensuring that all telehealth services be covered if those services are also furnished in person.

CMS Faces Another Call to Expand Telehealth Coverage for Specialists

More than 30 members of Congress have sent a letter to CMS Administrator Seema Verma asking her to expand COVID-19 telehealth coverage for audiology and speech-language pathology services.



Source: ThinkStock

By Eric Wicklund



October 13, 2020 - The Centers for Medicare & Medicaid Services is again facing calls to expand telehealth coverage for audiology and speech-language pathology during the coronavirus pandemic.

New Telehealth Bill Would Penalize States Who Don't Join Licensure Compact

A bill introduced last week would penalize states who don't join the compact, which aims to improve telehealth licensure application



Source: ThinkStock



By Eric Wicklund

November 24, 2020 - A group of lawmakers has introduced a bill that would penalize states who don't join the compact, which aims to improve telehealth licensure application

Congress Eyes Permanent Medicare Coverage for Telehealth from Therapists

A bill introduced this week would permanently extend Medicare coverage for telehealth services delivered by physical and occupational therapists, speech and language pathologists and audiologists



Source: ThinkStock



By Eric Wicklund

November 18, 2020 - A group of lawmakers has introduced a bill that would permanently extend Medicare coverage for telehealth services delivered by physical and occupational therapists, speech and language pathologists and audiologists



Connected Care Alliance Seeks Support for New Telehealth Licensure Rules

The Alliance for Connected Care is asking Congress and state lawmakers that would support the compact, which would allow providers to use telehealth to



Source: ThinkStock



By Eric Wicklund

November 16, 2020 - The Alliance for Connected Care is asking Congress and state lawmakers that would support the compact, which would allow providers to use telehealth to

New Bill Aims to Ensure Medicare Coverage for Audio-Only Telehealth Calls

The bill would establish Medicare reimbursement for audio-only telehealth services that focus on evaluation and management and mental and behavioral health care, and would allow coverage for services in the patient's home.



Source: ThinkStock



By Eric Wicklund

December 22, 2020 - A new bill before Congress aims to expand Medicare coverage for audio-only phone calls in telehealth programs.



Telehealth Legislative Trackers

- **States:**


Center for Connected Health Policy (CCHP)

<https://track.govhawk.com/reports/24PKO/public>

- **Federal:**

Alliance for Connected Care

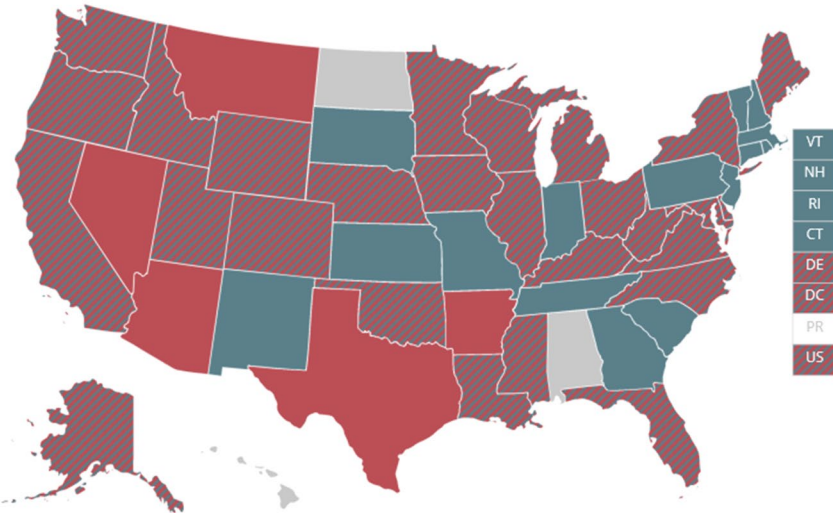
<http://connectwithcare.org/telehealth-legislation/>



Center for
Connected[®]
Health Policy
The National Telehealth Policy Resource Center

Telehealth Legislation & Regulation

Utilize the interactive 50 state legislation and regulatory tracking tool, located below, to browse telehealth legislation and regulation across the nation for the current legislative session.
RETURN TO THE CENTER FOR CONNECTED HEALTH POLICY BY VISITING WWW.CCHPCA.ORG.



■	Jurisdictions with Bills
■	Jurisdictions with Registers
■	Jurisdictions with Bills and Registers

US Dept. of Labor

- Made emergency declaration permanent
- Previously set to expire 12/31/2020
- FMLA requires employees to meet with doc in person within certain time frame to prove incapacity or serious health condition
- Now can do via TH
- Requires exam with A/V & must meet state regulations

Labor Dept. Makes Telehealth a Permanent Option for FMLA Requests

Federal officials have permanently extended an emergency order giving employees the option to use telehealth to meet with doctors to qualify for taking time off under the Family and Medical Leave Act.



Source: ThinkStock

By Eric Wicklund



January 05, 2021 - Employees can use telehealth to establish a serious health condition that would qualify them for taking time off from work under the Family and Medical Leave Act (FMLA).

CMS CY 2021 Home Health Changes

- Permanently authorizes use of telecommunications tech in providing care under Medicare home health benefit
- As long as telecom tech is:
 - Not substitute for at-home visit
 - Not intended to est. pt. eligibility/ payment
 - Included in plan of care
 - Deployed to address pt.-specific needs
 - Described in med. record with discussion of how it will help outcomes
 - RPM, TTY, or 2-way A/V visit

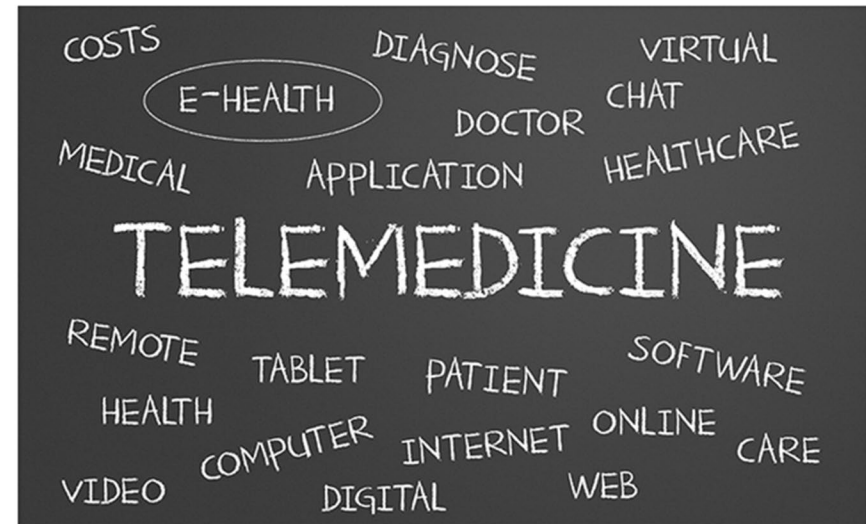


CMS 2021 Physician Fee Schedule: Big Changes

- **Temp:** Direct supervision via TH until Dec. 31, 2021 or end of PHE (whichever is later)
- **Permanent:** New frequency limitations for TH in nursing facilities: Reduced from 1x every 30 days to 1x every 14 days
- **Clarification:** It's not TH if provider & pt. are in same location, even if using telecom equipment to avoid COVID exposure – bill as in-person

Analysis: CMS Gives Telehealth a Boost, But More is Needed

Experts say the 2021 Physician Fee Schedule will advance telehealth adoption, but it falls short of giving momentum to remote patient monitoring. Oh, and Congress needs to step up to the plate, too.



Source: ThinkStock

By  Eric Wicklund



December 08, 2020 - The 2021 Physician Fee Schedule isn't knocking anyone over with optimism for the future of telehealth adoption.

CMS 2021 Physician Fee Schedule

- **Temp:** Extends reimbursement for certain Diabetes Prevention Program TH uses through end of PHE
- **Temp:** Audio-only codes added for PHE will end with PHE
- **Permanent:** New CTBS codes & providers
- **Permanent:** 9 new TH codes from temp. PHE list – all others end with PHE, except...
- **Temp:** 57 temp. TH codes last thru end of PHE CY but revert to rural only after PHE

Medicare Extends COVID-19 Telehealth Coverage in Diabetes Prevention Programs

As part of the 2021 Physician Fee Schedule, Medicare will continue to reimburse Diabetes Prevention Program providers who use certain telehealth services - but only for the duration of the public health emergency.



Source: ThinkStock

By  Eric Wicklund



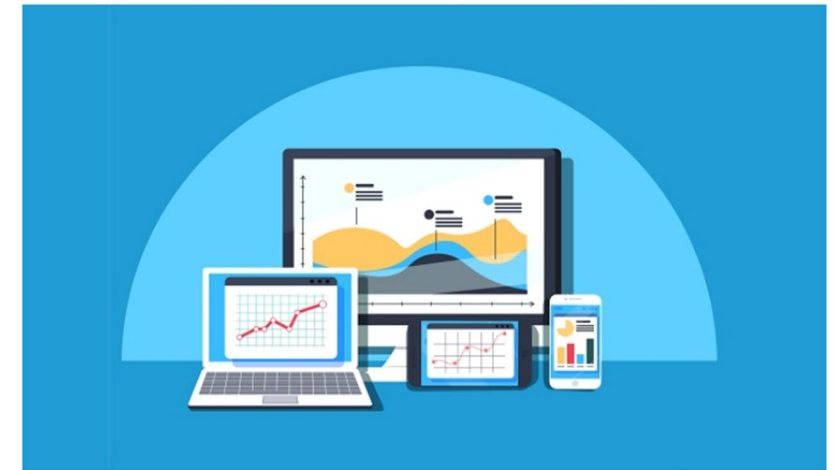
December 02, 2020 - Healthcare providers who use telehealth in their

CMS 2021 PFS Final Rule: RPM Clarifications

- Allowed for pts. w/ acute conditions
- Limited to established pts. (waived during PHE)
- Can only be ordered & billed by physicians or non-physician providers who can bill Medicare for E/M
- Only 1 provider can bill 99453-54 per month regardless of # of devices
- Also: who can provide RPM, min. time per month, min. days of monitoring per month, device requirements, etc.

CMS Finalizes Telehealth, RPM Coverage in 2021 Physician Fee Schedule

The agency has released its long-awaited final document on Medicare coverage for telehealth and remote patient monitoring services in the coming year, building upon trends seen during this year's coronavirus pandemic.



Source: Getty Images

By Eric Wicklund



December 02, 2020 - Telehealth and remote patient monitoring will see significant improvements in Medicare coverage in 2021.

Finalized CY 2021 MEDICARE PHYSICIAN FEE SCHEDULE



FACT SHEET | December 2020

INTRODUCTION

The Center for Medicare and Medicaid Services (CMS) finalized their CY 2021 revisions to the Physicians Fee Schedule (PFS).

The PFS addresses changes CMS made administratively in response to the COVID-19 public health emergency (PHE), and details how these changes will be dealt with on a provisional basis until the end of the PHE, and in some cases whether or not the policy will become permanent. There are some temporary policy changes that occurred during the PHE, such as limitations around the eligible provider types and patient location, that require congressional action to be extended beyond the PHE, and are thus not addressed in CMS' rule.

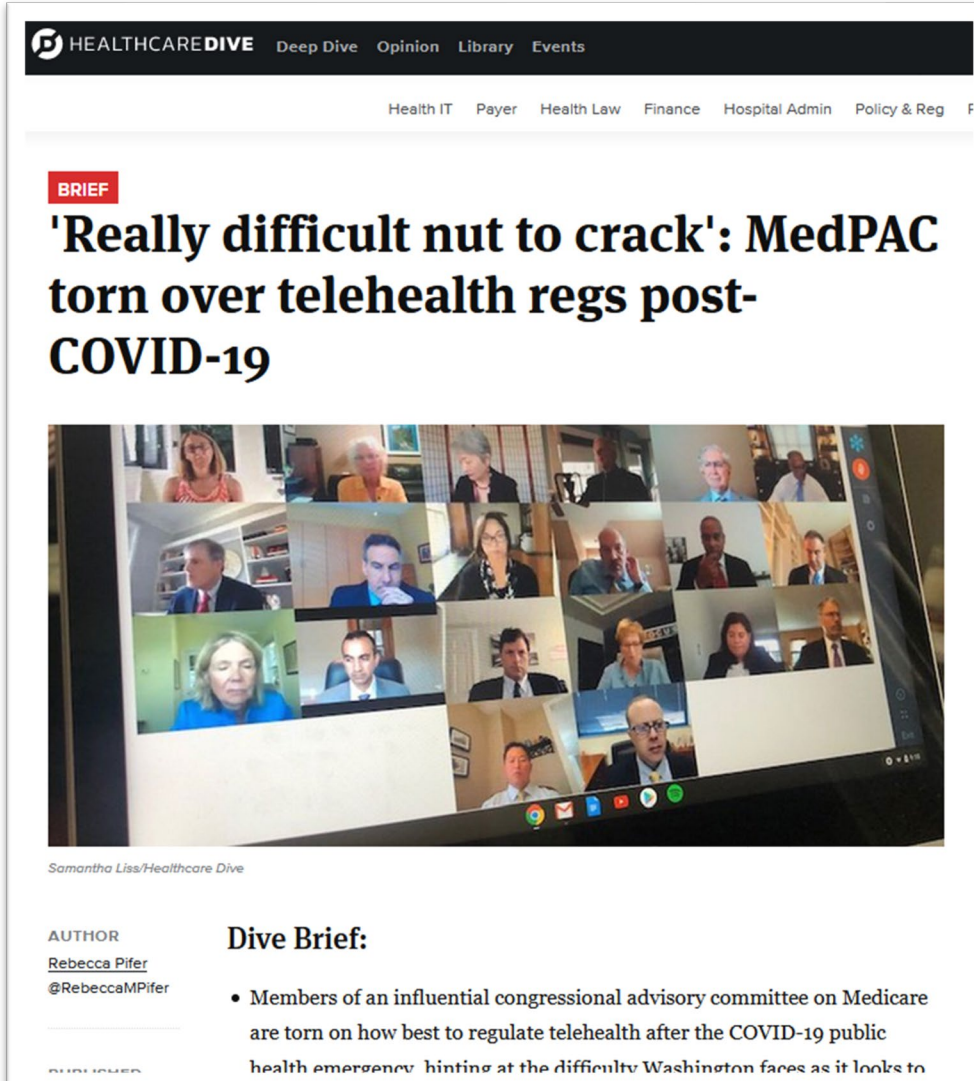
One of the most significant areas addressed in the finalized PFS is related to the codes that are eligible for telehealth reimbursement in Medicare. CMS is making permanent reimbursement of certain select codes that are currently on the Medicare temporary telehealth list as a result of the PHE. They are also adding additional codes provisionally which would be eligible for reimbursement until the end of the year in which the PHE ends. This would give enough time for CMS to thoroughly assess the codes' qualifications to be allowed permanently. Other codes that are currently eligible for telehealth reimbursement under the PHE would expire when the PHE ends. Although CMS is removing the exclusion of telephones, facsimile machines and electronic mail systems from the definition of an 'interactive telecommunication system', they will not continue to reimbursement for telephone codes (99441-99443). However, based on comments received, they are establishing a new HCPCS G-code describing 11-20 minutes of medical discussion to determine the necessity of an in-person visit. CMS also addresses a number of other issues, such as frequency limits for nursing facility visits furnished via telehealth. Clarification is given around issues such as the ability of physical, occupational and speech language pathologists to furnish brief online assessment and management services and certain requirements related to remote physiologic monitoring. CMS also specifies that the telehealth restrictions do not apply when a beneficiary and practitioner are in the same location even if conducted via audio/video technology. Each of these elements is discussed in detail below, as well as additional telehealth-related topics which are bulleted as the final section of this factsheet.

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MedPAC TH Discussion – Jan. 2021

- Medicare Payment Advisory Committee – advises Congress
- Imposing guardrails vs. restricting TH
- Broad support of TH, but worry about fraud & abuse
- Roll back all TH gains of PHE? Start a two-year pilot after PHE? Payment parity (claim TH costs less so should be paid less)? Allow audio only? Require video for certain services? Expand TH services?




HEALTHCARE DIVE Deep Dive Opinion Library Events

Health IT Payer Health Law Finance Hospital Admin Policy & Reg F

BRIEF

'Really difficult nut to crack': MedPAC torn over telehealth regs post-COVID-19



Samantha Liss/Healthcare Dive

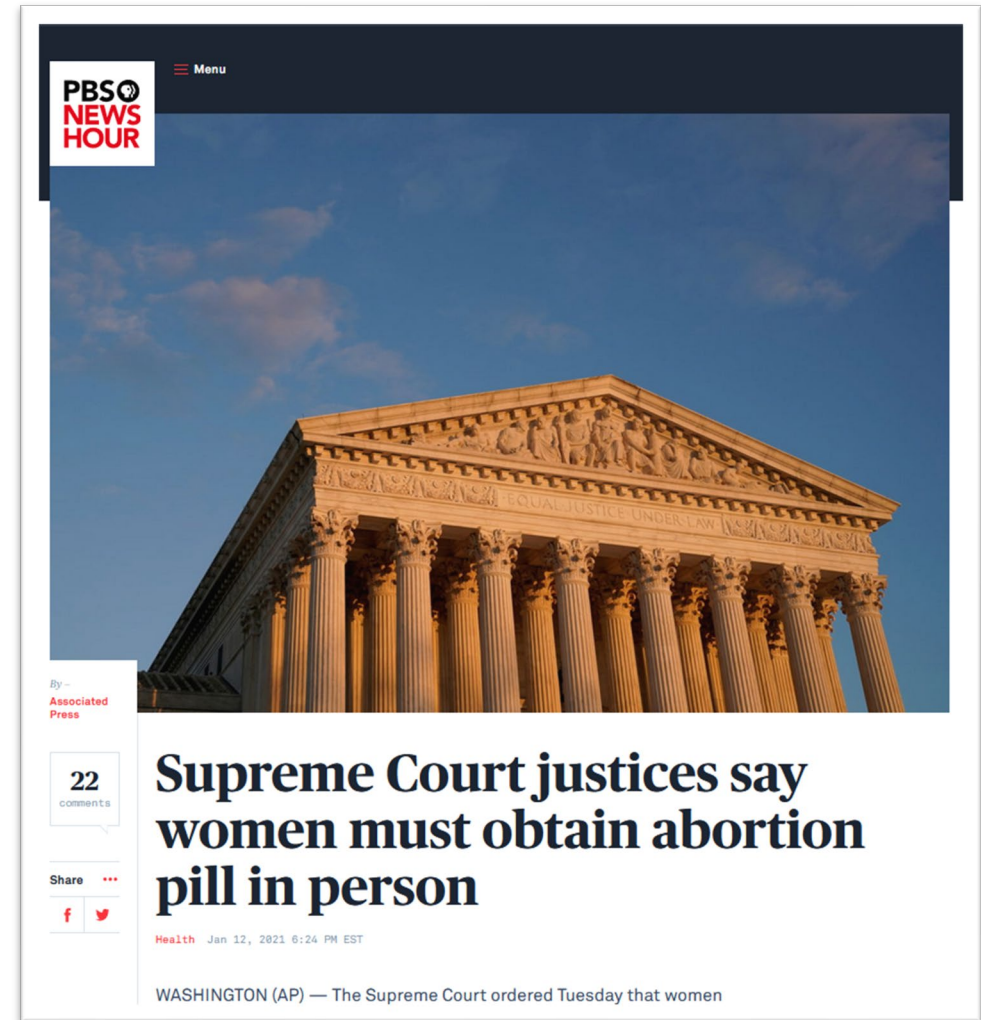
AUTHOR
Rebecca Pifer
@RebeccaMPifer

Dive Brief:

- Members of an influential congressional advisory committee on Medicare are torn on how best to regulate telehealth after the COVID-19 public health emergency, hinting at the difficulty Washington faces as it looks to

Telemedicine for Medication Abortions

- Nationwide order during PHE temp. suspending FDA requirement for in-person Rx dispensing
- Trump admin. requested rule reinstated
- 10/2020: SCOTUS rejected request
- 12/2020: Fed judge affirmed suspension
- Jan. 2021: SCOTUS granted Trump appeal to enforce rule



The DEA & Telemedicine

- Ryan Haight Act (2009):
 - To prevent illegal distribution & dispensing of controlled substances through the Internet
 - Must write a valid prescription for a legit medical purpose
 - Must follow laws of pt. state
 - Must be issued by practitioner who has conducted at least 1 in-person medical eval of pt. **OR** who meets 1 of 7 telemedicine exceptions ...



The screenshot shows the Arizona Telemedicine Program website. At the top, there is a navigation bar with links for Home, Blog, About Us, Distance Education, Applications & Network, and Resources. Below the navigation bar is a header image showing a doctor and a staff member examining a young child. To the left of the header is the Arizona Telemedicine Program logo, which features a caduceus and the text "ARIZONA TELEMEDICINE PROGRAM".

The main content area displays a blog post titled "Another Pandemic Silver Lining: Rural Patients Benefit from Relaxed Remote Prescribing Rules". The post is by Nancy Rowe and Sara F. Gibson, MD, dated Dec 17, 2020. Below the title are "View" and "Edit" buttons. To the left of the main content is a sidebar with "Blog Categories" including News & Events, Patients, Policy, Providers, Technology, Training, and mHealth. Below the categories is a "Get ATP/Blog Updates" section with an email address input field and a "Subscribe" button.

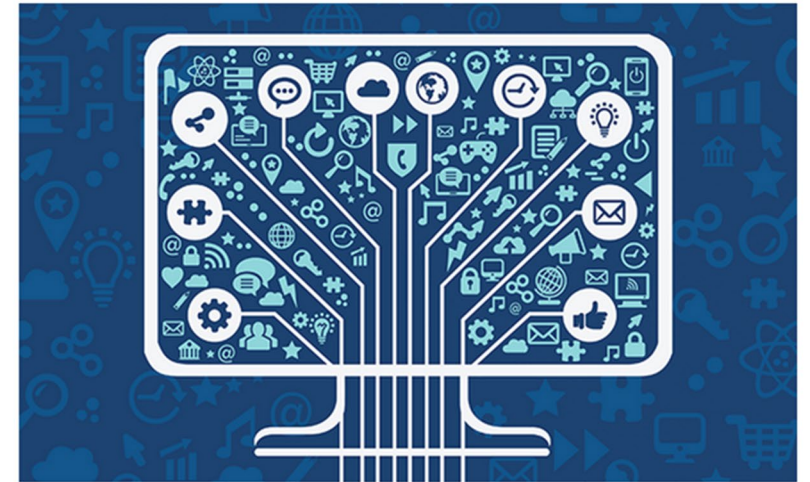
Below the blog post is a photograph of Dr. Gibson demonstrating her telemedicine setup with a staff member. The caption reads: "Dr. Gibson demonstrates her telemedicine setup with a staff member, circa 2013. Photo courtesy of Health Choice Arizona".

Pandemic Relief Bill & TH: Good, Bad & Ugly

- \$ for broadband expansion (FCC, tribal, USDA DLT grants) & TH Centers of Excellence
- Medicare coverage for TH at small rural hospitals & CAHs
- Removes rurality requirement for telehealth health, allows pt. homes (with in-person service within 6 months & subsequently)
- Doesn't extend TH access & coverage enacted during PHE
- Urges DEA to get Special Registration done

Telehealth Supporters See Little to Celebrate in Pandemic Relief Bill

The bill signed into law by President Trump before Christmas offers a few telehealth tidbits - including Medicare coverage for telemental health and rural hospitals and funding for broadband connectivity - but the criticism has so far outweighed the compliments.



Source: ThinkStock



By Eric Wicklund



January 04, 2021 - Telehealth advocates aren't impressed with the lack of support for connected health services in the latest pandemic relief package.

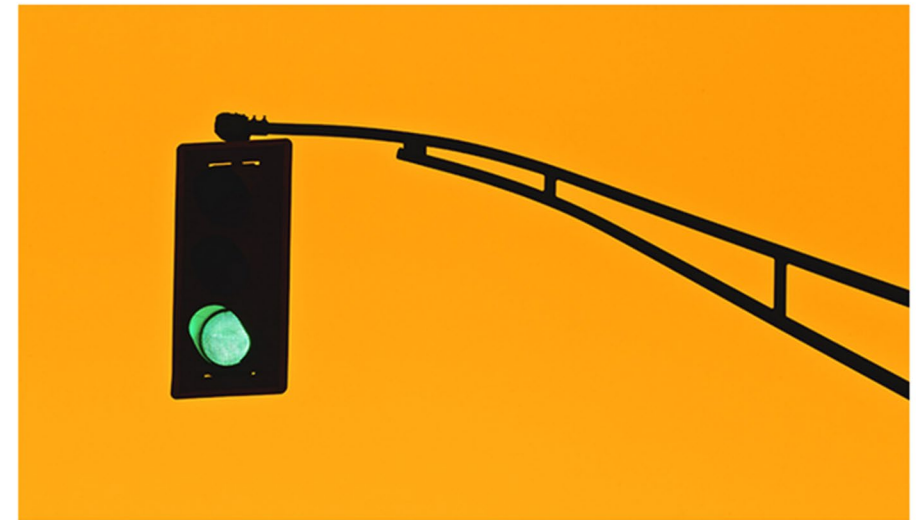
While **the \$900 billion bill**, passed by Congress and signed by President Donald Trump shortly before Christmas, does include funding for broadband expansion - **including the**

FCC: More TH Funding

- Another \$249.5M from new COVID relief package
- To restart its COVID-19 Telehealth Program (exhausted its \$200M in July 2020)
- Complaints: process not transparent, selected programs not funded
- Public comments due 1/19/2021

FCC Wants Advice on Relaunching COVID-19 Telehealth Program

The agency is asking for public comments by January 19 on how to evaluate applicants for the next round of the COVID-19 Telehealth Program, which received almost \$250 million in the latest relief bill.



Source: Getty Images

 By Eric Wicklund



January 08, 2021 - Federal officials are seeking public comments on plans to restart the **COVID-19 Telehealth Program**, which last year provided funding for broadband expansion and other connected health resources to roughly 540 healthcare programs across the country.

The Federal Communications Commission **is getting \$249.5 million from the Consolidated Appropriations Act of 2021**, which was signed by President Donald Trump

More Broadband Funding in Relief Package

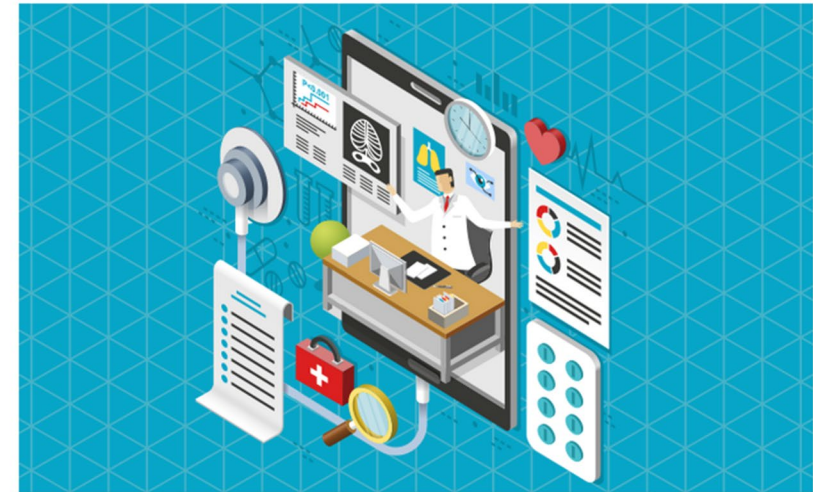
- \$1.9B for FCC's "Rip-and-Replace" Communications Security Program
- \$285M for connecting minority communities (educational)
- \$3.2B emergency broadband benefit for low-income
- \$1B tribal broadband connectivity grant program
- \$300M to promote broadband expansion to unserved Americans
- \$65M for better/updated broadband maps
- HR 451 keeps FCC from reallocating/auctioning off the T-Band
- HR 1328 establishes NTIA Office of Internet Connectivity & Growth
- S 4803 unleash mid-band spectrum for 5G & next-gen tech

New! CMS, OIG Stark/AKS Final Rule

- New, permanent exceptions for certain Value-Based Arrangements, Care Coord, Cybersecurity Tech & Services, **Pt. Engagement & Support Tools (mHealth, TH)**, etc.
- Guidance on issues like determining FMV
- Clarifications to reduce admin burden
- Effective 1/19/2021

Stark Law Changes Should Benefit Telehealth, Remote Patient Monitoring

The OIG's Final Rule on changes to the Stark Law and Anti-Kickback Statute creates several new safe harbors that will help providers create and expand telehealth platforms and remote patient monitoring programs.



Source: ThinkStock

By Eric Wicklund



November 24, 2020 - New safe harbors proposed for the Stark Law and Anti-Kickback Statute could help providers expand their telehealth and remote patient monitoring platforms.

New CMS Program – Nov. 2020

- 6 health systems will use TH to treat pts. at home
- For acute-care pts.
- Platform must allow daily check-ins & monitoring
- Builds off CMS Hospitals Without Walls program
- Hospitals must qualify for CMS waiver – screen pts. & homes

CMS Unveils New Telehealth Program to Treat Acute Care Patients at Home

The Acute Hospital Care at Home program would allow participating hospitals to qualify for Medicare waivers to treat patients at home via telehealth, reducing the strain on EDs and in-patient services.



Source: ThinkStock



By Eric Wicklund



November 25, 2020 - Six health systems across the country are expanding

AMA: New Policy on Telehealth (Nov. 2019)

- Continues to advocate for adoption of TH after PHE
- Advocates clear & uniform laws, rules, regs, policies for equitable coverage (including services wherever pt. is)
- Supports \$ for TH infrastructure (broadband, devices) for equitable access
- Support use of TH to reduce health disparities

American Medical Association Announces New Policy on Telehealth

The AMA has released a new telehealth policy, aimed at supporting federal and state efforts to clarify and improve coverage, access and reimbursement in the wake of the coronavirus pandemic.



Source: ThinkStock

By Eric Wicklund



PREP Act New Amendment

- Allows providers to order & administer Covered Countermeasures via TH across state lines
- As long as complying with legal requirements of state in which they are licensed
- Preempts state laws

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BECKER'S _____
HOSPITAL REVIEW

HHS expands telehealth across state lines in fight against COVID-19

Laura Dyrda ([Twitter](#)) - Friday, December 4th, 2020 [Print](#) | [Email](#)

[Share](#) [Tweet](#) [Share 7](#)

HHS will continue to allow clinicians to provide telehealth services across state lines for covered services, including diagnostic tests, to fight the spread of COVID-19.

On Dec. 3, HHS [amended](#) the Declaration under the Public Readiness and Emergency Preparedness Act to allow healthcare providers to order or administer "covered countermeasures" to COVID-19, such as diagnostic tests that received emergency use authorization from the FDA across state lines.

Many states now allow healthcare providers to deliver telehealth services from out-of-state during the pandemic, or generally, and the amendment solidifies telehealth coverage for COVID-19 countermeasures, regardless of where the patient and clinician reside.

The amendment preempts state laws prohibiting telehealth across state lines. The department said it aims to release more information about how the amendment affects Medicaid and Children's Health

Telehealth Policy Resource

- ATP/SWTRC Telemedicine COVID-19 Resources web pages:
<https://southwesttrc.org/resources/covid19>



The screenshot displays the Southwest TRC website interface. At the top left is the Southwest TRC logo, and to its right are social media icons for Facebook, Twitter, LinkedIn, and RSS. A search bar is located in the top right corner. Below the search bar, a CAPTCHA notice states: "CAPTCHA: no challenge enabled. Place a CAPTCHA here for untrusted users." To the right of the CAPTCHA notice is the text "The Southwest TRC is a subsidiary of" followed by the Arizona Telemedicine Program logo. A dark blue navigation bar contains the following links: Home, About Us, Region, Blog, Online Education, Resources, Events, Training, and Contact Us. Below the navigation bar, the page is divided into two main sections. On the left is the "COVID-19 Resources Menu" with links for "FOR HEALTHCARE PROVIDERS", "STATE-SPECIFIC INFORMATION", "CONSUMER RESOURCES", and "COVID-19 NEWSLETTERS". Below this menu is a "COVID-19 Resource Partner" logo for ADHS. On the right is the "Telemedicine COVID-19 Resources" section, which includes "View", "Edit", "Delete", and "Revisions" buttons. Below these buttons is a welcome message: "Welcome to the Southwest Telehealth Resource Center / Arizona Telemedicine Program Telemedicine COVID-19 Resources web pages. We update these pages regularly with information for healthcare providers (including state-specific info) and consumers. You'll see the main sections listed below and the subsections listed to the left as you click on a main section. Check back often for updates!" Below the welcome message are links for "FOR HEALTHCARE PROVIDERS", "STATE-SPECIFIC INFORMATION", "CONSUMER RESOURCES", and "COVID-19 NEWSLETTERS".

Telehealth Policy Resource

- Center for Connected Health Policy (CCHP): <https://www.cchpca.org/>

Center for Connected Health Policy
The National Telehealth Policy Resource Center

ABOUT **TELEHEALTH POLICY** PROJECTS RESOURCES CONTACT

CCHP helps you stay informed about telehealth-related laws, regulations and Medicaid programs. The map and search options below cover current laws and regulations for all fifty states and the District of Columbia. The information provided is only for research and informational purposes and should not be construed as legal counsel. Please consult with an attorney if you are seeking a legal opinion. To view the full report, visit the [50 State Report PDF](#).

***Please note** that for the most part, states continue to keep their temporary telehealth COVID-19 emergency policies siloed from their permanent telehealth policies. These temporary policies are not included in the Fall 2020 report. In instances where the state has made policies permanent, CCHP has incorporated those policies into this interactive map tool.

Current State Laws & Reimbursement Policies

Search by Filter Search by Keyword

All 50 States & D.C. ▾

Private Payer Laws ▾

Private Payer Laws: Requireme... ▾

APPLY

Legend: ■ Policy Exists/Explicitly Allowed ■ No Policy Exists or Not Explicitly Allowed

*Key applicable only to topics indicated with an asterisk in drop down menu.

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Thank you!

For questions or more info:

nrowe@telemedicine.arizona.edu

<https://southwesttrc.org/resources/covid19>

ARIZONA TELEMEDICINE PROGRAM



Arizona Legislative Updates

Arizona: SB 1089 Now in Effect!

- Huge breakthrough
- Mandates private payer coverage parity for TM
- Expands definition of telemedicine (adds S&F, RPM)
- (Still work to do: providers, definitions, regulatory board requirements, modalities, pt. locations, payment parity)

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Arizona Governor Signs New Telehealth Insurance Law

22 April 2019 | [Health Care Law Today](#) | [Blog](#)
Authors: [Nathaniel M. Lacktman](#)



On April 18, 2019, Arizona Governor Doug Ducey signed a new law expanding insurance coverage for telehealth services, including asynchronous telemedicine and remote patient monitoring. The Arizona Legislature passed, nearly unanimously (79-1), [SB 1089](#), ensuring that commercial health plans will cover medical services delivered in-person or via telemedicine. The law becomes effective January 1, 2021 and will benefit patients by increasing access and availability to healthcare services, and catalyze the growth of telehealth technologies throughout Arizona.

Telehealth Update: Governor's Office

Christina Corieri
*Senior Policy Advisor,
Office of the Governor*

Telemedicine

During the pandemic, telemedicine became more important than ever, not only for COVID-19, but for everyday health needs. Our rural areas, in particular, benefited greatly from individuals not having to travel to metropolitan areas in order to get basic health needs met. One of the largest areas of utilization of telemedicine was behavioral health as needs in this area have increased during the pandemic related to anxiety and isolation.

This legislative session, we should focus on permanently expanding these opportunities for all Arizonans. People have come to rely on the fact that they can see their doctors when necessary without the need to leave their own home. We trust that our doctors and patients can manage their relationships without the government and insurance companies telling them which method is more preferable.

The Legislature should also seek to expand this allowance so that doctors outside of our state may provide telehealth to patients in Arizona. A person who is visiting family here or spends the winter here, should be able to reach their doctor in their home state by telemedicine. A family in Mohave County who utilizes a hospital in Las Vegas, Nevada should be able to get follow up care via telemedicine. Today, someone who has the means to travel to a consultation with a specialist in another state can do so. Specialty doctors should not only be accessible via an expensive flight and hotel stay. If a specialty provider is willing to do a consult via telehealth, Arizona patients should have easy access to those services without unnecessary travel expenses and Arizona is going to lead the way on this. If it's safe and it works during a pandemic, we should embrace it when we're not in an emergency as well.

Arizona Telehealth Legislative Panel

- **Jason Bezozo**

Vice President, Government Relations, Banner Health

- **Kathy Busby**

Lobbyist, Arizona Nurses Association and Arizona Council of Human Service Providers

- **Greg Ensell**

Vice President, Government Relations, Arizona Hospital and Healthcare Association

- **Quinn Shean**

Managing Director, Tusk Strategies