

PUBLICATION

Home Health COVID-19 Telecommunications Technology Expansions are Here to Stay

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On June 25, 2020, Centers for Medicare and Medicaid Services (CMS) issued a proposed rule to make permanent all the flexibilities concerning the use of technology and telecommunications systems introduced for home health providers during the COVID–19 Public Health Emergency (PHE).

In its March 30, 2020 COVID-19 [PHE Interim Final Rule](#), published April 6, 2020, CMS temporarily amended the plan of care requirements for home health agencies at 42 CFR § 409.43(a) to allow for the provision of remote patient monitoring or other services furnished through a telecommunications system. The plan of care must describe how the use of such technology is tied to the patient-specific needs identified in the comprehensive assessment and how the use of the technology would help achieve the goals outlined on the patient's plan of care. CMS now proposes to finalize its amendment to 42 CFR § 409.43(a).

While the proposed rule provides flexibilities for the use of telecommunications technology in the home health setting, there are some limitations on payments for services provided through this means. Specifically, the services provided through a telecommunications system may not substitute in-person home visits ordered as part of the patient's plan of care and may not be considered a home visit for the purposes of patient eligibility or payment. Despite this, CMS highlights that the use of technology may result in changes to the frequencies and types of in-person visits ordered on a plan of care. The agency explains that home health providers would still be reimbursed for periods of care that involve fewer in-person visits supplemented with the use of telecommunication systems as long as the virtual visits are not a substitute for ordered in-person visits. The use of the telecommunication technology should be determined based on the patient's needs, as identified by the comprehensive assessment, and should be included in the patient's plan of care.

Finally, the agency proposes to make permanent its changes to allow home health agencies to report the costs of the telecommunications equipment or technology as allowable administrative costs on their home health agency cost report. CMS also proposes to amend 42 CFR § 409.46(e) to allow home health agencies to report other uses of telecommunications technology as allowable administrative costs, beyond remote patient monitoring, if consistent with the patient's plan of care.

These proposed changes are some of the first telehealth flexibilities provided during the COVID-19 PHE that CMS proposes to make permanent. It is yet to be seen whether CMS would make its COVID-19 telehealth flexibilities permanent in other care settings. Comments concerning CMS's proposed rule are due to CMS no later than August 31, 2020.

For more information or any question regarding these issues, please contact any member of [Baker Donelson's Reimbursement team](#).