
March 24, 2020

FAQs on Availability and Usage of Telehealth Services through Private Health Insurance Coverage in Response to Coronavirus Disease 2019 (COVID-19)

Q1. How can states and health insurance issuers use telehealth services to mitigate the impact of the COVID-19 public health emergency?

A1. The widespread availability and usage of telehealth services is vital to combat COVID-19.¹ Using telehealth services, enrollees are able to visit a healthcare professional from their home without having to travel to a medical office or hospital, helping minimize the risk of exposure to, and community spread of, COVID-19. CMS recognizes that most, if not all, issuers are currently offering telehealth benefits in some form in their current plans. Many states have encouraged health insurance issuers to cover robust telehealth services without cost sharing, and many issuers have already taken steps to promote the use of telehealth services by providing expanded access to telehealth services without cost sharing. We strongly encourage all issuers to promote the use of telehealth services, including by notifying policyholders and beneficiaries of their availability, by ensuring access to a robust suite of telehealth services, including mental health and substance use disorder services, and by covering telehealth services without cost sharing or other medical management requirements. To support these efforts, the HHS Office for Civil Rights has released a Notification of Enforcement Discretion waiving certain regulatory requirements under the HIPAA Rules to encourage providers to offer telehealth services during the COVID-19 public health emergency.² Providers are encouraged to continue protecting patient privacy to the maximum extent possible.

CMS encourages states to support efforts by health insurance issuers to increase access to telehealth services. In particular, CMS urges states to consider whether state licensing laws could be relaxed to enable more in-state and out-of-state providers to offer telehealth services in the state during the period in which a public health emergency declaration under section 319 of the Public Health Service Act (PHS Act) related to COVID-19 or a national emergency declaration under the National Emergencies Act, 50 U.S.C. 1601, *et seq.*, related to COVID-19 is in effect.³

¹ <https://www.hhs.gov/about/news/2020/03/17/secretary-azar-announces-historic-expansion-of-telehealth-access-to-combat-covid-19.html>.

² <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

³ On January 31, 2020, HHS Secretary Alex M. Azar II declared that as of January 27, 2020, a public health emergency exists nationwide as the result of the 2019 novel coronavirus. *See* Determination of the HHS Secretary that a Public Health Emergency Exists, <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>. On March 13, 2020, the President declared that the outbreak of COVID-19 in the United States constitutes a national emergency beginning March 1, 2020. *See* Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, issued March 13, 2020, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

Q2. In light of the public health emergency posed by COVID-19, will CMS allow issuers in the individual and group markets to amend plan benefits during a plan year to provide or expand coverage for telehealth services, and to reduce or eliminate cost sharing for such services?

A2. Yes. Issuers in the individual and group⁴ markets are generally not permitted to modify a health insurance product mid-year. However, to facilitate the nation's response to COVID-19, CMS will not take enforcement action against any health insurance issuer in the individual or group market that makes mid-year changes to the health insurance product to provide greater coverage for telehealth services or to reduce or eliminate cost-sharing requirements for telehealth services, even if the specific telehealth services covered by the change are not related to COVID-19. CMS would continue to take enforcement action against any health insurance issuer that attempts to limit or eliminate other benefits to offset the costs of increasing the generosity of telehealth benefits.

This enforcement discretion will provide flexibility to issuers, consistent with state law, to make such changes at any point during the period during which a public health emergency declaration under section 319 of the PHS Act related to COVID-19 or a national emergency declaration under the National Emergencies Act, 50 U.S.C. 1601, *et seq.*, related to COVID-19 is in effect. Issuers would not be expected to further amend their plans at the end of the period during which a public health emergency or national emergency declaration is in effect to undo any changes made under this policy. CMS encourages states to take a similar enforcement approach and would not consider a state to have failed to substantially enforce section 2703 of the PHS Act if it takes such an approach.

Q3. In light of the public health emergency posed by COVID-19, will CMS allow issuers of catastrophic plans to provide coverage for telehealth services before enrollees meet plan deductibles?

A3. Yes. To facilitate the nation's response to COVID-19, CMS will not take enforcement action against any health insurance issuer that amends its catastrophic plans to provide pre-deductible coverage for telehealth services, even if the specific telehealth services covered by the amendment are not related to COVID-19. This enforcement discretion will also apply for the period during which either the COVID-19 public health emergency declaration or national emergency declaration is in effect. CMS would continue to take enforcement action against any health insurance issuer that attempts to limit or eliminate other benefits under a catastrophic plan to offset the costs of providing pre-deductible coverage for telehealth services.

CMS encourages states to take a similar enforcement approach and would not consider a state to have failed to substantially enforce section 1302(e) of the PPACA if it takes such an approach.

⁴ The enforcement policy announced in this FAQ is not applicable to self-insured employer-sponsored group health plans, and does not affect provisions enforced by the Department of Labor against group health plans. To the extent applicable state or local law prohibits self-insured non-Federal governmental plans from making mid-year changes, we encourage the applicable state or local authority to exercise enforcement discretion similar to that described in this guidance, and in such cases, encourage self-insured non-Federal governmental plans to make the type of mid-year changes with respect to telehealth that are discussed in this document.