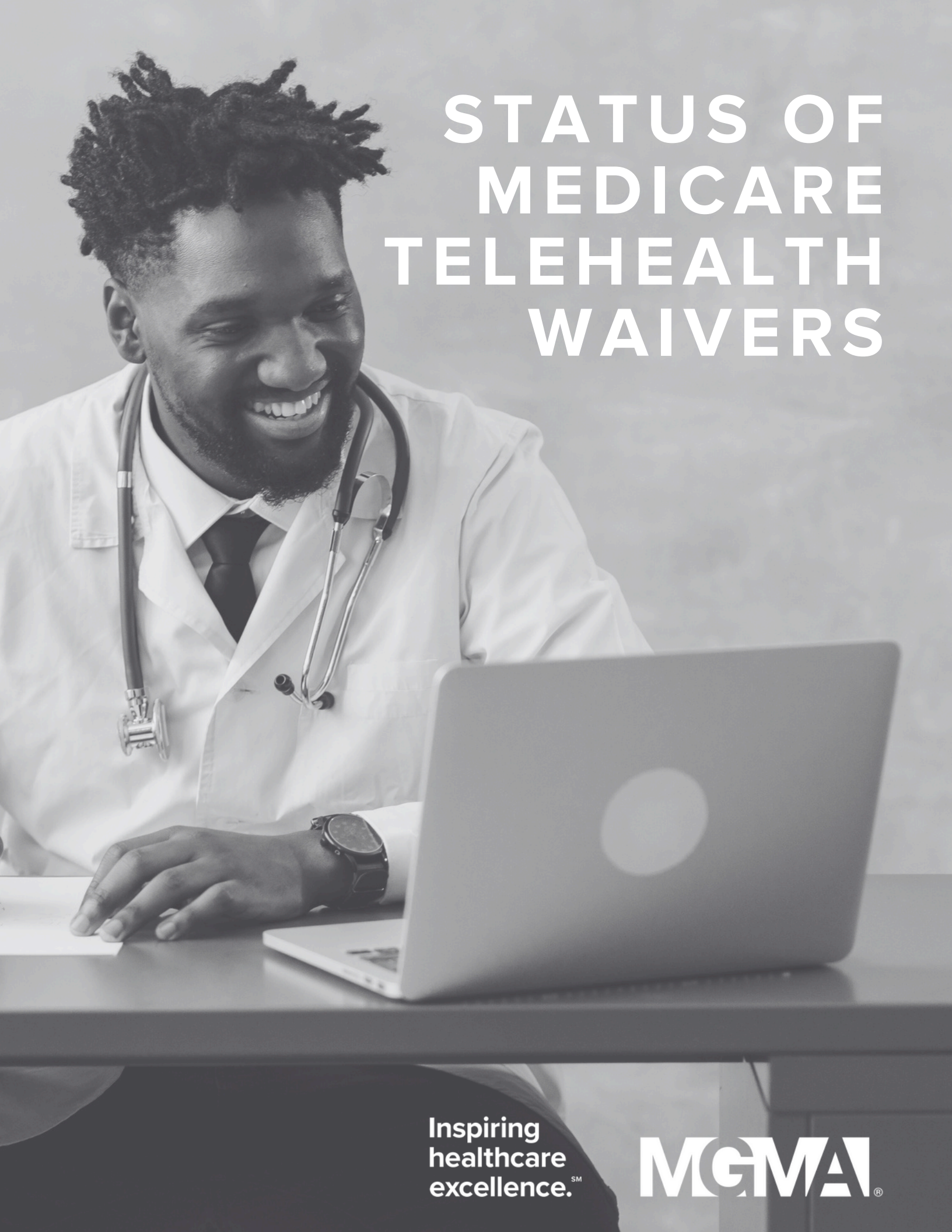

STATUS OF MEDICARE TELEHEALTH WAIVERS

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In 2020, the U.S. Department of Health & Human Services (HHS) instituted flexibilities that waived many of the generally applicable rules governing Medicare telehealth services in response to the COVID-19 pandemic. Many of these waivers were in effect through the duration of the COVID-19 public health emergency (PHE).

The Biden administration ended the COVID-19 PHE on May 11, 2023. This decision came after multiple renewals over the previous three years and had ramifications for a variety of telehealth flexibilities afforded by the pandemic. Due to congressional action (discussed below), many of these flexibilities now remain in effect through Dec. 31, 2024. Please keep in mind that this resource addresses Medicare payment policy, and that Medicaid and commercial payers may institute their own payment rules.

TELEHEALTH POLICY	PRE-PHE POLICY	PHE POLICY	DATE POLICY REVERTS TO PRE-PHE
ORIGINATING SITE/GEOGRAPHIC LOCATION	Beneficiaries must receive services at originating site in a rural area (not the home)	Location is waived – patients can be seen anywhere	Dec. 31, 2024 **exception: mental health services
QUALIFYING PROVIDERS	Certain providers are allowed to deliver telehealth services	Provider types extended to PTs, OTs, and SLPs	Dec. 31, 2024
AUDIO-ONLY SERVICES	CMS does not cover audio visits without a visual component	CMS will reimburse for services via phone (E&M visits)	Dec. 31, 2024
FQHCS AND RHCS	FQHCs and RHCs can not qualify as distant site providers	Can qualify as distant site providers	Dec. 31, 2024
PAYMENT PARITY	Telehealth services are reimbursed at typically lower facility rates	Telehealth services billed using Place of Service Code 10 will be reimbursed at the higher non-facility rate	Dec. 31, 2024 **exception: mental health services
CROSS-STATE LICENSURE	Providers must be licensed in state where patient is located	If providers meet four conditions, can treat patients in other states (still must comply with state licensure requirements)	State specific
HIPAA COMPLIANT PLATFORMS	Providers must use HIPAA compliant platforms	Providers can use non-HIPAA compliant platforms so long as not public-facing	Aug. 9, 2023
REQUIREMENTS FOR TELEHEALTH PRESCRIPTIONS	Required in-person evaluation before prescribing controlled substances via telehealth	Waived in-person requirement	Dec. 31, 2024

STATUS OF MEDICARE TELEHEALTH WAIVERS

PAYMENT PARITY

The 2024 Medicare Physician Fee Schedule (PFS) finalized that CMS will reimburse for telehealth services billed with Place of Service (POS) Code 10 (telehealth provided in patient's home) at the higher non-facility physician fee schedule rate. Claims billed with POS 2 (telehealth provided other than in patient's home) will be paid at the facility rate.

POST-PHE POLICIES: MENTAL HEALTH SERVICES

The Consolidated Appropriations Act, 2021, allowed for continued telehealth flexibilities post-PHE for mental health services. Specifically, practitioners can provide telehealth services to patients in non-rural areas and in their homes for the purposes of diagnosis, evaluation, or treatment of a mental health disorder other than for treatment of a diagnosed substance use disorder (SUD) or co-occurring mental health disorder. However, this is contingent on there being an initial in-person visit within six months of the telehealth service and that there is an in-person visit within 12 months of each mental telehealth service furnished. The Consolidated Appropriations Act, 2023 (CAA, 2023) — which contains a handful of provisions that impact medical group practices — delayed the in-person requirement before a patient receives mental health services through Dec. 31, 2024.

CMS will also allow audio-only technology when rendering mental health services if the practitioner has the capacity to furnish two-way, audio/video telehealth services, but is providing the mental health services via audio-only communication technology in instances where the beneficiary is unable to use, does not wish to use, or does not have access to two-way, audio/video technology.

For more information on the mental telehealth policies, visit MGMA's Final 2023 Medicare Physician Payment and Quality Reporting Changes analysis.

TEMPORARY TELEHEALTH WAIVER EXTENSIONS

Throughout the COVID-19 pandemic, Congress and CMS waived many telehealth requirements, thereby making telehealth more accessible. Congress then passed the CAA, 2022, which extended many telehealth flexibilities for 151 days past the conclusion of the COVID-19 PHE. The CAA, 2023, took this a step further and extended many of the prominent Medicare telehealth flexibilities through Dec. 31, 2024. The extended flexibilities include:

- The ability to see a patient in their own home regardless of geographic location
- An expanded list of eligible practitioners
- The ability for federally qualified health centers and rural health clinics to be distant site providers
- The ability to provide audio-only visits to patients
- The delay of the in-person visit requirement before a patient receives mental health visits

The CAA, 2023, requires a study on telehealth and Medicare program integrity that includes a medical record review from Jan. 1, 2022, to Dec. 31, 2024. The study will contain various elements such as examining the duration of telehealth services and where they were furnished.

The Office of Civil Rights (OCR) provided a 90-day transition period after the PHE ended on May 11 for providers to come into compliance with HIPAA rules for telehealth. This transition period ended on Aug. 9, 2023, and providers are expected to use HIPAA-compliant telehealth platforms.

TEMPORARY TELEHEALTH WAIVER EXTENSIONS CONT.

The Drug Enforcement Agency (DEA) waived in-person evaluation requirements for prescribing controlled substances via telehealth under the Ryan Haight Act during the COVID-19 PHE. After numerous rulemaking proposals, the DEA extended current telemedicine flexibilities through Dec. 31, 2024. The agency released a proposed rule for a permanent policy for prescribing controlled substances via telehealth that has yet to be finalized.

MGMA INSIGHT

CMS proposed to extend and permanently institute numerous telehealth policies in the recently proposed 2025 Medicare PFS. The agency's proposals include permanently covering audio-only services with certain conditions, extending its current direct supervision policy of allowing the presence and immediate availability of the supervising practitioner through real-time audio and video interactive telecommunications while permanently allowing direct supervision through virtual technology for specific lower risk services, continuing to allow home enrollment flexibilities for distant site practitioners, and more. MGMA submitted comments in response to the proposed PFS and will update members when CMS issues a final rule in early November.

With many of the central telehealth flexibilities set to expire at the end of the year, Congress has been examining legislation to extend these policies for another two years. The House Committee on Energy and Commerce recently passed a 2-year extension of telehealth policies such as removing originating site and geographic restrictions.

RESOURCES

- MGMA's telehealth position paper
- CMS list of telehealth services payable under the Medicare Physician Fee Schedule
- OCR's HIPAA transition period notice
- MGMA's Proposed 2025 Medicare Physician Payment and Quality Reporting Changes analysis
- MGMA's Final 2024 Medicare Physician Payment and Quality Reporting changes analysis
- MGMA's 2024 Medicare Outlook webinar recording

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