



FINAL RULES FOR MEDICARE ADVANTAGE PLANS AND TELEHEALTH

The Center for Medicare and Medicaid Services (CMS) released their final rules for changes to Medicare Advantage (MA) plans and how they may treat telehealth-delivered services in basic coverage plans. The 2018 Bipartisan Budget Act (BBA) allowed MA plans to begin covering telehealth-delivered services beyond what was statutorily required in Original Medicare (also known as Medicare Fee-For-Service) without offering these services under a supplemental plan. Currently, MA plans are required to cover the same telehealth-delivered services that are reimbursed in Original Medicare with the same limitations (patient must be in a rural area, only certain services are reimbursed, etc.). If MA plans wished to offer telehealth-delivered services that were not eligible under Original Medicare, they would have to be covered under a supplemental plan. The BBA stated that starting in 2020, MA plans would be allowed to offer telehealth as a mode of delivering any service already covered under Medicare Part B and not be subject to the limitations Original Medicare imposes. MA plans will be able to include the provision of these services within their calculations on basic benefit bids. The final rules issued by CMS clarified what would be allowed and other features on how MA plans can adopt these changes into their policies.

FINAL RULE SUMMARY

The new CMS rules for MA plans include the following elements:

- Coverage of telehealth-delivered services beyond what is required by Original Medicare is not mandated. MA plans are not required to offer these additional telehealth benefits.
- Services that are covered by Medicare Part B can be offered via telehealth and covered by the plan, should it choose to. However, some services may not lend themselves to being delivered via technology such as a service that has an in-person component. To differentiate the categories, **services eligible under the new rules will be referred to as “additional telehealth services” throughout the rest of this fact sheet.**
- The MA plans will decide what additional telehealth services are covered.
- The Original Medicare restrictions of geographic and facility limits do not apply.
- The modalities allowed are broadly defined.





- The Original Medicare limitations as to who may act as a provider will still apply.

Additional telehealth services can be provided by a:

- Physician
 - Physician assistant
 - Nurse practitioner
 - Clinical nurse specialist
 - Clinical social worker
 - Certified registered nurse anesthetist
 - Certified nurse-midwife
 - A clinical psychologist
 - Registered dietitian or nutritional professional
- Providers of additional telehealth services must be contracted, network providers.
 - All relevant state laws such as those related to licensing and telehealth will apply.
 - Enrollees will be allowed to utilize telehealth-delivered service or receive them in-person.
 - MA plans may use differential cost-sharing, but cannot use it to steer enrollees towards one delivery mechanism or another.



COVERAGES & SERVICES

Under the new rules, services that can now be delivered via telehealth and covered by MA plans as basic benefits are:

Benefits available under Medicare Part B but which are not payable under section 1834(m) of the Act; and

That have been identified by the MA plan for the applicable year as clinically appropriate to furnish through electronic exchange when the physician (as defined in section 1861(r) of the Act) or practitioner (described in section 1842(b)(18)(C) of the Act) providing the service is not in the same location as the enrollee.ⁱ

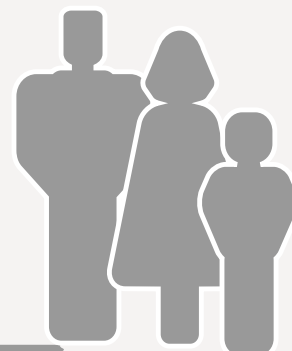
***NOTE:**

The “Act” referenced above is the Social Security Act and section 1834(m) refers to the part related to telehealth coverage in Original Medicare.



For services that are not covered under Medicare Part B, MA plans may still offer these services via telehealth, but they would not be considered “additional telehealth benefits,” but a “supplemental telehealth benefit.”

MA plans will decide what the “additional telehealth benefits” are and the coverage of these services is optional. MA plans still have the choice of only covering Original Medicare telehealth services.

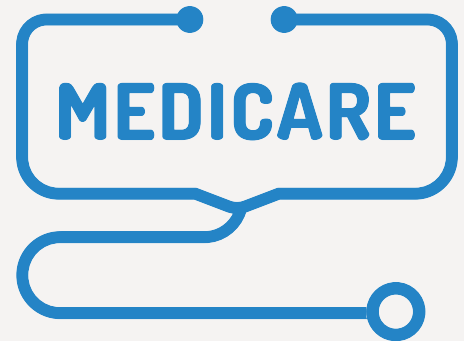


ORIGINAL MEDICARE RESTRICTIONS

Under Original Medicare telehealth services, coverage is restricted in several ways:

- Telehealth can only take place in specific geographic areas.
- Telehealth can only take place in specific types of facilities/locations.
- Only live video is reimbursed unless it is for a demonstration pilot in Alaska or Hawaii where store-and-forward is also allowed.
- Only certain services are reimbursed.
- Only specific providers can provide services via telehealth and be reimbursed by Original Medicare.

As noted earlier, the limitation on the types of services has been removed. MA plans may provide coverage for services via telehealth beyond what is required in Original Medicare. Additionally, the geographic, location and modality limits are also removed for MA plans seeking to provide additional telehealth benefits. Services can be provided through “an electronic exchange” which CMS is defining as “electronic information and telecommunications technology.” CMS has specifically left the definition broad, recognizing the technology needed and used to provide services could vary. They do note in the final rules published in the Federal Register that some examples include, but are not limited to, “secure messaging, store-and-forward technologies, telephone, videoconferencing, other internet-based technologies, and other evolving technologies as appropriate for non-face-to-face communication.”



However, one limitation in Original Medicare that does carry over into additional telehealth benefits is the limited list of providers who may provide the services. While a variety of health care professionals can and do utilize telehealth to provide service, the additional telehealth benefits offered by MA plans will still only apply to the limited list of providers currently allowed in Original Medicare due to the language in the BBA.ⁱⁱ

OTHER PROVIDER REQUIREMENTS

CMS noted MA plans offering additional telehealth benefits must comply with provider selection and credentialing requirements provided in CFR 42 §422.204 which includes that the provider must be licensed in the state and that he/she is approved and reviewed by an accrediting body or meets the standards established by the MA plan. The MA plan must also have written policies and procedures for selecting and evaluating providers. MA plans must also ensure that providers comply with applicable state licensing requirements and other applicable laws in the state the enrollee is located and receiving services. CMS stressed that the providers of additional telehealth benefits are contracted, in-network providers of the MA plan.

ENROLEES

CMS noted that enrollees were to have the option of using services provided via telehealth or in-person. However, concerns were raised regarding differential cost-sharing where one service such as in-person might be priced higher and an enrollee who did not have connectivity access would be forced to opt for the higher priced service. CMS stated it believes current protections in place will be adequate to address this issue.

CMS originally proposed to require information regarding coverage of telehealth benefits be given to

enrollees in their Evidence of Coverage (EOC) documents as well as list providers who offer telehealth delivered services in its network directories. Due to concerns raised by commentators, CMS has paused these requirements and are only requiring MA plans inform enrollees that services are available through telehealth. CMS noted that it will issue in the future a sub-regulatory guidance providing further details.



ANALYSIS

While MA plans will have greater flexibility in providing more telehealth-delivered services, it is optional. MA plans are not required to offer these expanded services. Additionally, each MA plan may create their own policies potentially having wide variations between plans on what services delivered via telehealth are offered. Within the final rules published in the *Federal Register*, CMS estimated anticipated effects of these new rules on MA plans and saw cost savings for all parties involved. Though CMS believes that the use of telehealth will result in savings, plans may not wish to incorporate these changes.

Certain limitations may make this option unattractive to MA plans. The limitation of only certain types of providers who can provide these additional telehealth benefits and the requirement that they be contracted, in-network providers may create hurdles that some MA plans may find cumbersome. Additionally, the requirement that these providers are subject to applicable laws in the patient's state may also cause providers to hesitate to utilize the technology. The variation of policies across states may have created too complicated of an environment for providers to navigate.

Overall, greater flexibility and opportunities are provided to MA plans which many have been requested for several years. However, it is unknown how many will take advantage of it and exactly what services they will cover.

ⁱ 42 USC 1395w-22(m)(2)(a).

ⁱⁱ Ibid.

RESOURCES:

Center for Connected Health Policy: www.cchpc.org

Telehealth Resource Centers: www.telehealthresourcecenter.org

Centers for Medicare and Medicaid: <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/>

Prepared by:

