

# Rules, Regulation, and Reimbursement

## Temporary Pandemic-Driven Changes Yield Greater Benefits

**Author:** Pam Malinoski

When the COVID-19 pandemic hit in the spring of 2020, modern life radically changed in short order. Many professionals began working from home, schools shifted to virtual learning, stores started curbside pickup, and restaurants limited capacity.

Hospitals, clinics, and other healthcare facilities had to ramp up non-contact care for infectious patients as well as find ways to continue caring for non-COVID clients in safe and effective ways. As a result, both local and federal governments relaxed typically strict regulations for healthcare services. Rules regarding what types of telehealth platforms were allowed, regulations about practicing medicine across state lines, and Medicaid and other types of insurance reimbursement for virtual visits have been temporarily relaxed in many cases, allowing patients to receive needed care during these uncertain times.

### Expansion of Telehealth Platforms Allowed

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that was designed to create national standards to protect sensitive patient health information. Before the pandemic began, hospitals, clinics and other healthcare providers had to use only HIPAA-compliant systems and communication vehicles.

When the COVID-19 situation was deemed a national emergency, the U.S. Department of Health and Human Services relaxed its rules. “Covered health care providers subject to the HIPAA Rules may seek to communicate with patients, and provide telehealth services, through remote communications technologies,” according to an official statement. “Some of these technologies, and the manner in which they are used by HIPAA covered health care providers, may not fully comply with the requirements of the HIPAA Rules.”

The statement continued, “OCR (Office for Civil Rights for U.S. Department of Health and Human Services) will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health

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care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency.”

United Hospital District (UHD) in Minnesota was one facility that took advantage of those relaxed regulations in order to jumpstart its telehealth offerings to serve its patients.

“When the executive orders came out that allowed us to put HIPAA aside, it allowed us to use existing technology right away,” said Rick Ash, CEO. “ That meant we could use Facetime, Google, or whatever technology our patients were comfortable with. We were able to meet patients where they were in terms of technology. We hope that ability doesn’t get walked back after the pandemic.”

That said, UHD was able to serve its patients quickly while buying a little time to make necessary changes in its HIPAA-compliant electronic medical records system.

“We soon made a huge jump forward with our electronic medical records system, which allowed us to add a video option,” Ash said. All patient information is kept in UHD’s medical records system. Patients can log into a secure portal to pay bills or access their health care records. However, now they are able to schedule telehealth appointments with their providers on the same system.



**Photo description:** United Hospital District

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“On the provider side, all the information is in one place,” Ash explained. “A doctor can simply initiate a telehealth visit and have all patient information on the same screen. Everything is integrated.”

### **Some State Licensing Rules Relaxed**

Although the details of what is allowed and not allowed vary widely by state, the majority of states have made provisions to help healthcare providers gain flexibility in serving patients during the global pandemic.

According to the Federation of State Medical Boards, more than 40 states and U.S. territories approved waivers that modified some requirements for telehealth in response to COVID-19. These may include allowing out-of-state physicians to treat patients via virtual visits, preserving preexisting provider-patient relationships, or modifying audio-only requirements.

Healthcare staff at the St. Croix Regional Medical Center (SCRMC) in Wisconsin have been able to take advantage of these waivers to provide better care. Many older Wisconsin residents move to a warmer climate for five or six of the winter months. “Many of these patients will have primary care physicians in both locations, but they tend to only have specialty care in Wisconsin,” explained Franklin Johnson, Vice President of Practice Administration at SCRMC. “As a result, these patients tend to delay specialty treatment until they return to Wisconsin.”



**Photo description:** St. Croix Regional Medical Center staff in the COVID-19 testing area

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The relaxation of rules regarding practicing medicine over state lines has allowed some SCRMC providers to conduct virtual visits with those patients during the winter, order tests and labs quickly, and provide better treatment and care as a result.

### **Allowing Reimbursements for Telehealth Appointments**

Both public and private insurers have reconsidered the types of telehealth appointments and services that are eligible for reimbursement as a result of the COVID-19 pandemic.

According to the [Centers for Medicare and Medicaid Services \(CMS\)](#), “Since the beginning of the PHE (public health emergency), CMS has added over 135 services to the Medicare telehealth services list – such as emergency department visits, initial inpatient and nursing facility visits, and discharge day management services.”

As of October 14, 2020, Medicare will pay for 144 services performed via telehealth. CMS states that, between mid-March and mid-August 2020, more than 12.1 million Medicare beneficiaries, or more than 36 percent, of people with Medicare Fee-For-Service have received a telemedicine service as a result.

Mary Ellen Rigby, director of UHD’s Home Health and Hospice, explained how this Medicare reimbursement change has helped chronically ill rural patients more easily obtain the cost-effective home healthcare they need.

“Before this change, patients who wanted home health care services were required to see a physician in person,” Rigby explained. “The physician had to then certify the patient was eligible for home health care. However, in our rural service area, that could mean hours of travel for an ill patient who has no family or transportation support. Since telehealth visits are now eligible for reimbursement, these patients can now be seen virtually to become certified for home health care and receive the services they need.”

The telehealth team at Upland Hills Health in Wisconsin has first-hand experience on what a big difference the reimbursement rules can make.

“We actually participated in a grant to begin a telepsychiatry program about three years ago,” said Maureen Teubert, data analytics coordinator and nurse Informaticist at Upland Hills Health. “Unfortunately, that program wasn’t sustainable due to reimbursement issues. However, since we had purchased the equipment and site licenses for that initiative, it was extremely easy to hit the ground running when the pandemic started last spring. We were one of the first providers to be up and running in the area.”

Within a week or two, Upland Hills Health was conducting virtual appointments for COVID screenings and high risk patients.

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**Photo description:** Upland Hills Health

Dr. Joseph Berg, physician champion for the telehealth program at Upland Hills Health, was responsible for establishing telehealth visit guidelines. “We started with high-risk patients and those with mild symptoms who didn’t need extensive physical exams,” said Dr. Berg. “A vast majority of our visits were for anxiety and depression. It was really beneficial for mental health issues. Our hospital was aggressive; we closed all our non-essential clinics and consolidated our staff early on. We wanted to make sure we could still see, serve and protect our patients through this time.”

As Upland Hills Health has reaped the benefits of telehealth, the organization has established a strategic planning group to look at future telehealth applications. “We’ve successfully used telehealth in our family medicine practices,” Teubert said. “Now we’re looking at expanding the program into specialty areas. It will depend a lot on regulation and reimbursement rules in the future.”

Both Upland Hills Health and St. Croix Regional Medical Center are located in the gpTRAC region and have benefited from previous training conducted by Jonathan Neufeld, Director of gpTRAC.

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**Photo description:** Dr. Joseph Berg, physician champion for the telehealth program at Upland Hills Health

### Stay Up-To-Date

As the pandemic continues to affect healthcare across the country, rules, regulations and reimbursement are likely to change and continue to be modified. The Great Plains Telehealth Resource and Assistance Center (gpTRAC) offers an up-to-date resource online for its service area, which [details the current regulations for each state](#).

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