

PUBLICATION

Major Advances for Telehealth in the Bipartisan Budget Act of 2018

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On February 9, 2018, Congress passed and the President signed into law the Bipartisan Budget Act of 2018 (BBA). This wide-reaching legislation enacts major changes for telehealth policy in Medicare by incorporating policies from the Senate's Creating High-Quality Results and Outcomes Necessary to Improve Chronic (CHRONIC) Care Act. These policy changes from the CHRONIC Care Act represent the most significant legislative advances for Medicare's telehealth policy in several years.

Key Telehealth Provisions

ESRD Patients. Medicare patients with end-stage renal disease (ESRD) on home dialysis may receive their monthly clinical assessments at home using telehealth, rather than in-person, beginning January 1, 2019. This provision allows freestanding dialysis facilities and the patient's home to serve as the originating site and eliminates geographic restrictions for all originating sites. Patients will be required to receive a face-to-face visit for the first three months of home dialysis and once every three months thereafter. In certain circumstances, providers will be allowed to furnish equipment to help facilitate telehealth to patients receiving home dialysis.

Tele-stroke. Currently Medicare will only cover telehealth services that are provided to patients located in certain rural or non-urban areas. However, under the new law, patients arriving at a hospital with acute stroke symptoms may receive a telehealth consultation to determine the best course of treatment, without regard to their geographic location. This provision goes into effect January 1, 2019.

MA Plans. Beginning in plan year 2020, the BBA allows Medicare Advantage (MA) plans to offer additional, clinically appropriate telehealth benefits in their annual bid amount beyond the services that receive payment under traditional Medicare. The Department of Health and Human Services (HHS) Secretary is required to solicit comments on the types of telehealth services and the requirement of the related benefits, such as remote patient monitoring, secure messaging, and store and forward technologies. MA plans would be required to provide access to services offered via telehealth through in-person visits as well, allowing patients the choice between both options. MA enrollment is **projected to exceed 34 percent** of all Medicare enrollees this year, therefore this provision is expected to have significant impact on the expansion of telehealth benefits.

ACOs. Finally, the BBA enables Accountable Care Organizations (ACOs) to expand the use of telehealth by allowing other ACOs to take advantage of the existing Next Generation ACO telehealth waiver, which waives the geographic location criteria, allows the patient's home to serve as the originating site, and allows for the use of teledermatology and teleophthalmology. Now this waiver can be used in the Medicare Shared Savings Program (MSSP) Track II, MSSP Track III, and other two-sided risk ACO models with prospective assignment that are tested or expanded through the Center for Medicare & Medicaid Innovation.

Impact

Overall, these policy changes offer the potential to improve access and quality of care for Medicare beneficiaries, especially those who are suffering from chronic conditions and whose lives could be saved by early interventions such as stroke patients. The Congressional Budget Office projects that these policy changes will likely produce significant savings, which is exactly the evidence Medicare needs to continue its expansion of the telehealth benefit.

Clients should carefully review these developments to determine if an additional service line opportunity will become available as the expanded Medicare coverage and reimbursement policies are implemented.

If you have questions about the content of this alert, please contact any member of the [Baker Ober Health Law Group](#).