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**Memorandum**

*January 19, 2021*

**Telehealth Provisions in the COVID-19 Omnibus**

# Executive Summary

Attached to the [Omnibus](https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR133SA-RCP-116-68.pdf) passed at the end of 2020, Congress included a COVID relief package. This additional legislation provides alterations to telehealth policies, including expanded telehealth coverage, originating site changes, broadband expansion, and a new reimbursement plan for Rural Health Clinics.

# Division CC — Health Extenders

**Title I — Medicare Provisions**

* **Expanding access to mental health services furnished through telehealth**. Section 123 includes the Mental Health Telemedicine Expansion Act ([H.R. 1301](https://www.congress.gov/bill/116th-congress/house-bill/1301/text)). Previously, Medicare reimbursement for telehealth services focused on rural patients. The changes help ensure telehealth is an option available to all Medicare beneficiaries. The new law is designed to make it easier to seek and obtain services. It waives geographic restrictions in Medicare’s reimbursement guidelines for mental health services delivered via telehealth, and it allows patients to receive telemental health in their home. To receive Medicare payment for mental health telehealth services, the physician or practitioner must have conducted an in-person assessment of the beneficiary at least once during the six-month period prior to the first telehealth service, with the frequency of additional face-to-face requirements determined by the Secretary. However, this requirement has the potential to create further barriers to care. More specifically, this bill will impact the delivery of care by:
  + Improving access to mental health care services for the growing population of older adults, who are suffering from depression, chronic pain, and are at risk for suicide and addiction.
  + Mitigating travel and mobility restrictions that are common within the Medicare population and that can lead beneficiaries to delay care.
  + Enabling Medicare beneficiaries to access services regardless of their geographic location and to ensure they can receive care from their own homes. Removal of the geographic barrier is particularly relevant for patients to receive care from behavioral health providers and specialists, especially where provider capacity has limited patient utilization.
  + Contributing to lowering the cost of care by providing early and timely diagnosis and improving ongoing management of mental health conditions.
* **Medicare Payment for Rural Emergency Hospital Services**. Section 125 creates a new, voluntary Medicare payment designation that allows either a Critical Access Hospital (CAH) or a small, rural hospital with less than 50 beds to convert to a Rural Emergency Hospital (REH) to preserve beneficiary access to emergency medical care in rural areas that can no longer support a fully operational inpatient hospital. REHs can also furnish additional medical services needed in their community, such as observation care, outpatient hospital services, telehealth services, ambulance services, and skilled nursing facility services. REHs will be reimbursed under all applicable Medicare prospective payment systems, plus an additional monthly facility payment and an add-on payment for hospital outpatient services. Rural emergency hospitals are now treated as a telehealth originating site.
* **Improving rural health clinic payments**. Section 130 implements a comprehensive Rural Health Clinic (RHC) payment reform plan. It phases-in a steady increase in the RHC statutory cap over an eight-year period, subjects all new RHCs to a uniform per-visit cap, and controls the annual rate of growth for uncapped RHCs whose payments are above the upper limit. It ensures that no RHC would see a reduction in reimbursement. The limit is:
  + In 2021, $100 per visit
  + In 2022, $113 per visit
  + In 2023, $126 per visit
  + In 2024, $139 per visit
  + In 2025, $152 per visit
  + In 2026, $165 per visit
  + In 2027, $178 per visit
  + In 2028, $190 per visit

# Division N — Additional Coronavirus Response and Relief

**Title IX — Broadband Internet Access Service**

* **FCC COVID Telehealth program**. Section 903 appropriates an additional $250 million to the FCC for its COVID-19 Telehealth Program authorized under the CARES Act. It also puts in place new transparency obligations for the program surrounding the FCC’s review of applications, and directs the Commission to ensure, to the extent feasible, that all states benefit from the program.
* **Benefit for Broadband Service During Emergency Period Relating to COVID-19**. Section 904 establishes the Emergency Broadband Benefit Program at the FCC, under which eligible households may receive a discount of up to $50 ($75 on tribal lands) off the cost of internet service and a subsidy for low-cost devices such as computers and tablets.
* **Grants for Broadband Connectivity**. Section 905 establishes two grant programs at the NTIA. The first is a grant program to support broadband connectivity on tribal lands throughout the country. The grants would be directed to tribal governments to be used not only for broadband deployment on tribal lands, but also telehealth, distance learning, broadband affordability, and digital inclusion. $1 billion is appropriated for this program. The second is a $300 million broadband deployment program to support broadband infrastructure deployment to areas lacking broadband, especially rural areas. The grants would be issued to qualifying partnerships between state and local governments and fixed broadband providers. Priority for grants would be given to networks that would reach the most unserved consumers.

# Division BB — Other Matters

**Title II — Transparency**

* **Disclosure of direct and indirect compensation for brokers and consultants to employer-sponsored health plans and enrollees in plans on the individual market**. Section 202 appropriates an additional $250 to the Federal Communications Commission for the COVID-19 Telehealth reimbursement program authorized by the CARES Act in March, 2020.

# Division FF — Other Matters

**Title IX — Telecommunications and Consumer Protection**

* **Broadband Interagency Coordination Act**. Section 904 establishes grant programs at the National Telecommunications and Information Administration to bolster broadband connectivity on tribal lands and in state and local governments across the country.