

Protecting Access to Post-COVID-19 Telehealth Act Reintroduced to Congress

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This week, a bipartisan group of lawmakers reintroduced the Protecting Access to Post-COVID-19 Telehealth Act to the U.S. House of Representatives. Telehealth has expanded both at the individual provider and hospital system levels through support from federal and state emergency measures aimed at increasing access during the pandemic. Without legislative intervention many of these measures will disappear when the public health emergency ends. With this in mind, the Bill's sponsors are focused on ensuring telehealth's widespread accessibility for patients across the nation continues after the COVID-19 crisis subsides. The Bill's sponsors have praised telehealth as an essential, cost-effective method of delivering care. They also expressed that telehealth should be widely available to address current needs, and those that could arise from future emergencies or disasters, and "to ensure that everyone has access to quality care no matter where they live or how mobile they are."

The Bill was originally introduced in the House in July 2020, but it, along with an array of other healthcare-related bills, did not make it through last year's Congress. Although the year-end stimulus bill passed by Congress and signed into law by President Trump in late 2020 addressed telehealth, sponsors of the new telehealth Bill believe that legislation did not go far enough.

Historically, federal legislation has limited Medicare coverage for telehealth, while private payers have increasingly relied on telehealth to furnish care to their insureds when in-person care is not an option. Supporters of the Bill note the disparity between coverage for Medicare beneficiaries versus private insureds has been highlighted by the unprecedented demands of the pandemic. As such, the reintroduced Bill aims to protect telehealth's current use and expand it moving forward by:

- Eliminating most originating site and geographic restrictions on the use of telehealth in Medicare. Establishing an individual patient's home as an eligible distant site so patients can receive telehealth care in their homes and providers can still be reimbursed;
- Preventing a sudden loss of telehealth services for Medicare beneficiaries. Empowering the Centers for Medicare and Medicaid Service to continue reimbursement for telehealth for 90 days beyond the end of the public health emergency;
- Making permanent the current disaster waiver authority. Enable Health and Human Services to expand telehealth in Medicare during all future emergencies and disasters; and
- Requiring a study on the use of telehealth during the COVID-19 pandemic, including its costs, uptake rates, measurable health outcomes and racial and geographic disparities.

It is safe to say there are many benefits to the use of telehealth and it is expected to remain and expand in the future; but how fast and how widely is still unknown. State legislatures have the power, and some have already taken steps, to expand telehealth access via assorted methods. But is that power enough? Many feel the answer is "no" and that federal intervention is necessary. This Bill works to address those concerns. Of course, it remains to be seen whether the Bill will pass on its second attempt, but it does have support from important industry players, including the American Telemedicine Association, which issued a related press release on January 25th.

White and Williams has previously reported on legislative and other developments affecting telehealth and will continue to monitor this important aspect of the provision of healthcare.

If you have questions or would like further information, please contact Debra A. Weinrich (weinrichd@whiteandwilliams.com; 215.864.6260), Michael W. Horner (hornerm@whiteandwilliams.com; 856.317.3658) Erin P. Hohol (hohole@whiteandwilliams.com; 215.864.6310) or another member of our Healthcare Group.

As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates [here](#).

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