

# OIGs Report on Expanded Telehealth Service Access and Use, Program Integrity Risks During Year One of COVID-19 Pandemic

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The Pandemic Response Accountability Committee (PRAC) Health Care Subgroup recently published an expansive report that highlighted the sheer volume of [expanded access to and use of telehealth services](#) in certain federal health care programs during the first year of the COVID-19 pandemic. The report also focused on program integrity risks related to this expanded use and included recommended safeguards for future oversight of telehealth services.

The PRAC Health Care Subgroup includes six Offices of Inspectors General (OIGs) responsible for the oversight of the following six federal agencies that have some level of involvement with providing health care services and their associated programs:

- Department of Health and Human Services (HHS) – Medicare;
- Department of Defense (DoD) – TRICARE; Office of Personnel Management (OPM) - Federal Employee Health Benefits Program;
- Department of Veterans Affairs (VA) – Veterans Health Administration;
- Department of Labor (DOL) – Office of Workers' Compensation Programs; and
- Department of Justice (DOJ) – Federal Bureau of Prisons and U.S. Marshals Service (DOJ prisoner health care services).

The HHS OIG published its own individual report regarding [program integrity risks related to telehealth services](#) on September 2, 2022. It also identified concerns about the quality of care provided and the [potential for fraud, waste, and abuse related to telehealth services](#) in a September 2021 report.

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The OIGs reviewed and compared data on the use of telehealth services during the year prior to the COVID-19 pandemic (March 2019 through February 2020) and the pandemic's first year (March 2020 through February 2021).

## **Expanded Use of Telehealth Services**

Not surprisingly, all six programs experienced significant increases in the use of and spending on telehealth services during the first year of the COVID-19 pandemic. The PRAC Health Care Subgroup reported the following figures:

- An estimated 37 million individuals used telehealth services between March 2020 and February 2021, which was 13 times greater than the estimated 3 million individuals that used telehealth services between March 2019 and February 2020.
- In total, individuals received approximately 156 million services across the six programs during the first year of the pandemic.
- The most common telehealth services used by individuals in most of the programs were primary care or specialist visits as well as various behavioral health services.
- The six programs collectively spent an estimated \$6.2 billion on telehealth services during the first year of the pandemic, which may be an underestimated amount due to a lack of available data.

Among the six programs studied, Medicare experienced the most significant increase in telehealth use and spending. Specifically, Medicare beneficiaries' use of telehealth services was 83 times higher during the first year of the pandemic as compared to the prior year, with more than 28 million Medicare beneficiaries using approximately 114.4 million telehealth services during that first year. Medicare also comprised the largest part of telehealth spending, accounting for about \$5.1 billion for Medicare fee-for-service beneficiaries, which was 76 times higher than the year before the pandemic.

## **Increased Telehealth Services Access**

The selected programs modified their telehealth policies during the pandemic to increase access and expand coverage for telehealth services. They provided relatively similar coverage of telehealth services, but the OIGs noted some variation in how programs handled patient cost-sharing and provider payment amounts. This flexibility allowed millions of beneficiaries to access telehealth services that would have otherwise been unavailable prior to the pandemic.

The six programs made some or all of the following adjustments to expand access:

- increased coverage for a variety of telehealth services;
- added flexibility in how individuals could access telehealth services;
- modification of cost-sharing responsibilities for telehealth services (some programs did not collect any copayments or coinsurance for all or most services);
- payment of equivalent amounts for telehealth services and in-person services; and

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- implementation of increased flexibilities around the credentialing and privileging of health care providers to address [healthcare staffing shortages](#).

## Program Integrity Risks

The OIGs found that the six agencies experienced various program integrity risks related to billing and payment for telehealth services, a lack of information regarding the impact of telehealth on quality of care, and missing data for the oversight of telehealth services.

### ***Billing and Payment***

According to the report, the OIGs found a number of billing issues related to telehealth services, citing these examples of billing and ordering:

- upcoding – billing for services at a higher level of complexity or duration than was provided or needed;
- lack of medical necessity – billing for services that did not meet the programs’ medical necessity requirements;
- duplicate billing – billing more than one time for the same service (e.g., 138 providers billed both Medicare fee-for-service and a Medicare Advantage plan for the same telehealth services);
- ordering of unnecessary DME, supplies, or laboratory tests – ordering of unnecessary DME or laboratory tests following telehealth visits (which has led to extensive health care fraud investigations involving telefraud schemes);
- high-volume billing – billing at a high number of days in a year, high average number of hours of telehealth services per visit, high number of beneficiaries, and billing for a telehealth service and ordering medical equipment for a high proportion of beneficiaries; and
- inappropriate/ineligible billing – billing for both surprising and inappropriate services (e.g., providers billed for services such as wound debridement and acupuncture as telehealth services and for facility fees).

Notably, the HHS OIG determined that 1,700 providers’ billing for telehealth services posed a high risk to Medicare, which is a relatively small number compared to the approximately 742,000 providers who billed for a telehealth service. However, the HHS OIG stated that the provider billing issues mentioned above, upcoding in particular, are cause for concern.

As detailed in our [health care enforcement report](#) published earlier this year, DOJ and other enforcement agencies have vigorously pursued what they call “telefraud” schemes involving the ordering of medically unnecessary items and services since at least 2019, and these efforts are ongoing. In 2021, an important shift in telehealth-related enforcement occurred when DOJ announced “first in the nation charges” involving billing for telehealth consults that did not occur. However, we have yet to see signs that civil False Claims Act cases related to telehealth fraud will become the norm (as predicted by some in the industry), but only time will tell.

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**Limited Information and Data**

The OIGs reported difficulties in being able to assess telehealth services from a traditional care quality standpoint. The HHS, OPM, and DOJ, in particular, noted that they had minimal knowledge regarding the quality of care related to telehealth services, with HHS focusing on the need to evaluate care quality for audio-only telehealth services. Further, the report stated that TRICARE's contractors found 89 potential quality issues related to telehealth services during the first year of the pandemic, which was an uptick from the seven issues found the year prior to the COVID-19 pandemic.

Additionally, the OIGs stated that these programs would benefit from more complete and reliable data to allow for billing oversight. The HHS OIG also cited needing additional data on audio-only telehealth services and "incident to" billing. The DoD OIG and DOL OIG found issues with the TRICARE and Office of Workers' Compensation Programs, respectively around distinguishing between in-person and telehealth services.

**Recommended Safeguards**

These programs currently use traditional program integrity safeguards such as data analysis, claims edits, medical reviews, audits, and compliance hotlines. In addition, the OIGs recommended additional oversight measures, including additional billing controls such as pre-payment edits, telehealth services education regarding correct billing for services, and collection of more data to bolster oversight and review regarding the effect of telehealth services on quality of care.

**Conclusion**

The PRAC Health Subgroup's focus on telehealth program integrity is likely to continue in the months and years to come. Telehealth providers and those doing business with them should take the appropriate steps to mitigate risk, such as conducting internal and external billing and coding audits, following all developments related to telehealth coding and billing, and implementing an effective compliance program that meets government expectations.

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