The Impact of the COVID-19 Pandemic on Telemedicine in Long Term Care

"Meteoric" is the term the U.S. Secretary of Health and Human Services used to describe the rise in the use of telemedicine/telehealth since the beginning of the pandemic in March 2020. Almost 40% of the 63 million Medicare enrollees received some sort of telemedicine service in the first seven months of the public health crisis. A report by FAIR Health found private payer telehealth claims increased 3,000% in 2020. Is this level of telehealth use here to stay and if so, what is the impact on the long-term care setting?

As discussed previously in this blog, telemedicine or telehealth is a means to connect patients to healthcare services and education remotely through technologies like the internet, videoconferencing, streaming media, and wireless communications. It can include virtual visits, chat-based interactions, and remote patient monitoring. While telehealth had been gaining momentum for several years, the quarantine restrictions created by the pandemic pressed long-term care facilities into action in order to provide high-quality and safe care for their residents.

Government Initiatives

In March 2020 the Centers for Medicare & Medicaid Services (CMS) expanded the use of telehealth under the 1135 waiver authority and the Coronavirus Preparedness and Response Supplemental Appropriations Act. The intent is to ensure Medicare beneficiaries, who are in a higher COVID-19 risk category, are able to visit their provider from their place of residence without the risk of going into an office or hospital. Under this waiver, while the Public Health Emergency (PHE) is in place, payable services furnished by physicians and other covered practitioners (subject to state laws) to nursing home patients include:

- **Medicare telehealth visits** between a provider and new *or* established patients.
- **Virtual check-ins** of 5-10 minutes with a resident's established practitioner via telephone or other device to determine if an office visit is needed.
- **E-visits** between a resident and their established provider through an online patient portal.

Other important changes under this waiver include **the elimination of geographic restrictions** for patients and providers and allowing providers to furnish services **outside their state of licensure**.

CMS published the Long-Term Care Nursing Homes Telehealth and Telemedicine Tool Kit to assist facilities with telehealth implementation. Of note, penalties may be waived for HIPAA violations against healthcare providers that "serve patients in good faith through everyday communication technologies, such as FaceTime or Skype" during the COVID-19 emergency. For example, if telehealth cannot be provided in a private setting, reasonable precautions could include using lowered voices, not using a speaker phone,

or having the patient move a reasonable distance from others when discussing PHI.

Along with the federal government, many states have temporarily removed policy barriers to telehealth utilization during the pandemic. Private payers have also temporarily modified telehealth coverage during the PHE, including reimbursing providers at the in-person rate.

Making these changes permanent requires an act of Congress. Bipartisan legislation was introduced in February 2021 in both the House and the Senate under the *Telehealth Modernization Act* to ensure access to telehealth services for Medicare beneficiaries once the public health emergency expires. These bills are strongly supported by many professional organizations, including the American Telemedicine Association, whose CEO noted "access to telehealth is no longer an option in today's society, it is an essential component of care delivery." The March 2021 Medicare Payment Advisory Commission (MedPAC) *Report to the Congress: Medicare Payment Policy* proposes a continuation of telehealth services. This recommendation is for a specified duration after the PHE is over with a goal of collecting data regarding access to care, quality of care and spending.

Documentation

According to the American Health Information Management Association's "Telemedicine Services and the Health Record" Practice Brief, telemedicine records should be kept in the same manner as other health records. Basic guidelines for a telemedicine encounter include:

- The telemedicine provider
  - must assess the patient's need for telemedicine services/orders through an identification assessment process prior to scheduling the appointment.
  - is responsible for accurately documenting all required content during the telemedicine encounter.
  - reviews telemedicine orders.
  - incorporates telemedicine orders into the treatment plan.
  - documents all steps and required follow-up.
- Documentation of the physical location of the provider and the patient must be included.

In addition, the names of all persons participating in the telemedicine service, along with their role in the encounter, must be recorded. This becomes important in the long-term care facility as staffing, particularly during the pandemic, is often reduced. It may not be feasible to have a nurse assist the resident with the telehealth visit, so clear documentation of who is present, as well as the type of training they have received to assist with telehealth visits, is essential.

Long-term care facilities should have procedures in place to ensure the documentation from the provider for the telehealth visit is incorporated into the resident's record in the same manner as if it were an in-office visit. Consideration regarding the participation of family members in a telehealth visit, and the documentation of such, should also be included in telehealth policies. Procedures

to ensure patient privacy should also be in place, even with the more lenient HIPAA guidelines.

Continuing Developments

A survey of physicians and other healthcare professionals, the COVID-19 Healthcare Coalition Telehealth Impact Study, indicated they would like the following types of visits to continue via telehealth after COVID-19: chronic disease management, medical management, care coordination, hospital/ER follow-up, specialty care, mental/behavioral health, and acute care. Telehealth visits could become standard procedure as these are common types of visits for long-term care residents.

This same survey noted that the top barriers to the use of "virtual care" after the pandemic included low/no reimbursement, technology challenges for patients, liability, and integration with the electronic health records. Providers will continue to be guided by CMS, as well as state and private insurers, regarding reimbursement guidelines. State legislatures are debating the continuation of loosening licensing requirements in allowing providers to practice across state lines. Tech companies are continuing to expand and develop tools to facilitate virtual visits and remote monitoring.

Excelas will continue to closely follow all developments related to telehealth in long-term care settings, including the *Telehealth Modernization Act*, and its impact on telehealth benefits for Medicare recipients in the future.