

Problem

1. The Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) has announced it will temporarily allow consumer audio or video chat applications for telemedicine use.
2. The Centers for Medicare & Medicaid Services (CMS) has waived requirements relegating Medicare payments for telemedicine visits.
3. The purpose of these temporary actions is to accommodate telemedicine needs during the COVID-19 health emergency and encourage infection control and outbreak response measures to help control the spread of the infection.

ECRI Recommendations:

For Clinicians:

1. Be prepared to use consumer audio and video chat applications to communicate with patients as needed during the COVID-19 health emergency.

For IT/security staff:

1. Draft temporary appropriate technology usage policies as needed to accommodate telemedicine use.
2. Accommodate requests for access to non-public facing audio and video chat applications for telemedicine purposes as an appropriate business need.
 1. Consider role-based firewall or web-filtering rules.
3. These changes represent temporary exceptions to existing rules and staff should be prepared to reestablish full compliance post crisis. Be prepared to roll back to appropriate telemedicine procedures post crisis.

Background:

1. On March 17, OCR at HHS announced:
 1. "OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. This notification is effective immediately."
 2. [Notification of Enforcement Discretion for telehealth remote communications during the COVID-19 nationwide public health emergency](#)
 3. The announcement allows use of non-public facing audio or video chats for the purpose of communicating with patients during the COVID-19 public health emergency.
 1. This allowance is for all telehealth purposes and is not limited to COVID-19-specific diagnosis or communication.
 4. Examples of non-public facing audio or video chats include:
 1. Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Skype
 5. Public-facing applications that broadcast audio and video are not covered under the announcement and should not be used for telehealth. Applications that are public facing include:
 1. Facebook Live, Twitch, TikTok
 6. Under normal circumstances, the use of consumer audio and video chat applications are generally noncompliant with the HIPAA Security Rule. Any communication applications use for telemedicine would require a Business Associate Agreement with the vendor.
 7. Additionally, CMS announced waivers in requirements for telemedicine visit Medicare payments:
 1. "EXPANSION OF TELEHEALTH WITH 1135 WAIVER: Under this new waiver, Medicare can pay for office, hospital, and other visits furnished via telehealth across the country and including in patient's places of residence starting March 6, 2020. A range of providers, such as doctors, nurse practitioners, clinical psychologists, and licensed clinical social workers, will be able to offer telehealth to their patients. Additionally, the HHS Office of Inspector General (OIG) is

providing flexibility for healthcare providers to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs."

2. [Medicare Telemedicine Health Care Provider Fact Sheet](#)

References & Source Documents:

1. United States. Department of Health and Human Services. Notification of enforcement discretion for telehealth remote communications during the COVID-19 nationwide public health emergency [online]. 2020 Mar 19 [cited 2020 Mar 20]. Available from Internet: [Click here](#).
2. United States. Centers for Medicare & Medicaid Services. Medicare telemedicine health care provider fact sheet [online]. 2020 Mar 17 [cited 2020 Mar 20]. Available from Internet: [Click here](#).

UMDNS Term(s)

Information Systems, Telemedicine, Videoconferencing [18138]

Geographic Region(s)

Worldwide

Suggested Distribution

Clinical/Biomedical Engineering, Risk Management/Continuous Quality Improvement, Information Technology, Home Care

Comment

- This alert is a living document and may be updated when ECRI receives additional information.