

OIG Allows Reduction/Waiver of Patient Cost-Sharing Obligations for Telehealth Services

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On March 17, 2020, the Office of Inspector General issued a policy statement which permits telehealth providers to reduce or waive cost-sharing requirements (like copayments and deductibles) Federal health care program beneficiaries may owe for telehealth services (1). Usually, such reductions or waivers can implicate various fraud and abuse laws, including the anti-kickback statute, civil monetary penalty and exclusion laws related to kickbacks, and the civil monetary penalty law prohibition on inducements to beneficiaries.

To qualify, the reduction/waiver must satisfy the following two elements:

1. A physician or other practitioner reduces/waives cost-sharing obligations a beneficiary may owe for telehealth services consistent with the then-applicable coverage and payment rules; and
2. The telehealth services are furnished during the time period subject to the January 31, 2020 COVID-19 public health emergency declaration made by HHS Secretary Alex Azar.

Providers are not required to reduce/waive beneficiaries' cost-sharing obligations. Any free telehealth services provided during the public health emergency period (2) will not be treated as inducements for future business or referrals. This press release does not impact a provider's responsibility to bill, submit claims, or engage in cost reporting.

The telehealth regulatory landscape likely will continue to see dramatic changes in the coming months as a result of COVID-19. Sandberg Phoenix's healthcare regulatory compliance attorneys are dedicated to staying abreast of these changes and are available to service your entity's telehealth needs during this complicated period of change.

(1) <https://oig.hhs.gov/newsroom/whats-new/index.asp>

(2) The emergency period lasts 90 days (until April 30, 2020), but can be shortened or extended.

