



# Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2021

FACT SHEET | May 2021

The “Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2021” was recently introduced by Senator Brian Schatz (D-HI). Having authored previous iterations of this bill, Senator Schatz notes that this Act will promote higher quality of care, increased access to care and reduce spending in Medicare through the expansion of telehealth services. Thus far, it has received bipartisan support from the majority of his fellow Senators.

▶ There are three main sections to the CONNECT Act:

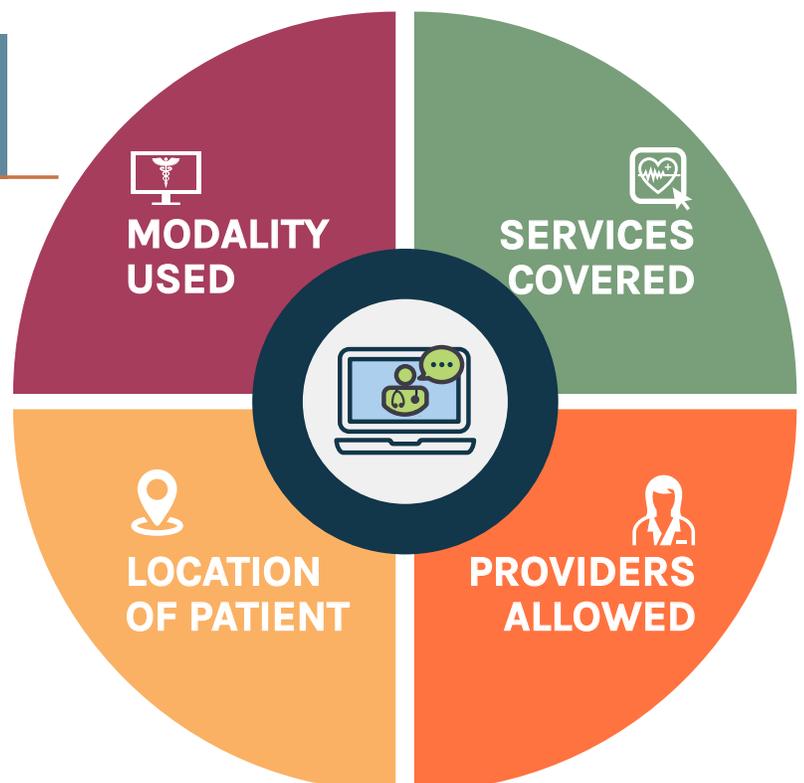
1. Removing Barriers to Telehealth Coverage
2. Program Integrity
3. Data and Testing of Models

## 1. Removing Barriers to Telehealth Coverage

Existing telehealth reimbursement policy typically has four issues in which the policy in question touches. Medicare telehealth policy is no different. These areas are:

- Modality Used
- Location of Patient
- Providers
- Services Covered

The CONNECT Act, to varying extent, will impact all four policy areas.



## ▶ MODALITY USED



Under current law, telehealth services are to be furnished via a “telecommunication system” but there is no statutory definition for exactly what constitutes a “telecommunication system.” In federal regulations, the word “interactive” was added to the term which is why only live video is currently reimbursed in the Medicare program (aside from store-and-forward for telehealth demonstration programs in Alaska and Hawaii, which is explicitly written into federal statute). The Centers for Medicare and Medicaid Services (CMS) has stated that it cannot reinterpret the definition for a “telecommunication system” from how they are currently defining it, an interactive system that needs to include audio and visual, unless otherwise directed by Congress. While

the CONNECT Act does not make any statutory changes to the definition of “telecommunication system” or include in statute any further expansion regarding modality, it does state that it is the “Sense of Congress” that the Secretary of Health and Human Services (the Secretary) should modify, when appropriate, the definition of “interactive telecommunications system.” While this is not statutory language, it does provide the direction from Congress that CMS may have felt was lacking in their ability to redefine what the term means. Congress was also explicit to note that the types of technologies would include audio-only.

## ▶ LOCATION OF THE PATIENT



### CURRENT LAW

- Patient must be in a “rural” or non-Metropolitan Statistical Area (MSA), some narrow exceptions
- Specific List of Eligible Sites with limited allowances for the home

### CONNECT ACT PROPOSAL

- Geographic limitations will be removed
- Home will be allowed as an originating site for all services
- The Secretary may add additional sites and develop specific policies for those sites
- Geographic limitations would not apply to an Indian Health Services (IHS) facility
- Geographic limitation will not apply if providing emergency care
- There will be no facility fees for some of these new additions such as the home

The location of the patient has been a limiting factor to the utilization of telehealth in the Medicare program. By removing the geographic limitation, the ability of patients to access services via telehealth is greatly improved. Additionally, allowing the home to be an eligible originating site beyond the few exceptions that currently exist will increase access, particularly those who may have difficulty with transportation or limited mobility.

## ▶ PROVIDERS

Federally qualified health centers (FQHCs) and rural health clinics (RHCs) who under current law only qualify to act as originating sites, would be allowed to act as distant site providers under the CONNECT Act proposals. Additionally, they would receive their prospective payment services (PPS)

rate unlike what was seen during the pandemic where FQHCs/RHCs received \$92.06 for each service delivered via telehealth regardless of what it was. The Act only adds FQHCs and RHCs statutorily to the eligible provider list.

## ▶ SERVICES COVERED

The services that are reimbursed in Medicare when telehealth is used is the one area where CMS does not have to wait for Congressional action. However, under the CONNECT Act, the Secretary is directed to improve the process in which services are added to the telehealth eligible list. The current process allows two ways in which a service can be added to the telehealth eligible list. A service can be added if it passes a Category 1 or 2 test. To pass a Category 1 test, the service must be similar to one that is already on the telehealth list. A Category 2 test involves providing sufficient

evidence that provision of the service via telehealth demonstrated clinical benefit to the patient. It is very difficult to pass a Category 2 test as the quality and amount of evidence and information that needs to be submitted is vague.

Additionally, the CONNECT Act will allow the Secretary to add services on a temporary basis to the eligible telehealth list.

## ▶ ADDITIONAL ELEMENTS

The CONNECT Act will also provide the Secretary the authority to waive current requirements. Requirements that can be waived are:

- Originating site
- Geographic limitations
- Limits on the types of technology used
- Limits on the types of practitioners eligible to provide services via telehealth in Medicare
- Types of services covered
- Any other limitation the Secretary deems necessary

For these waivers, the Secretary would be allowed to set the policies, and fee schedule, for the items waived.

For example, the Secretary could create a waiver that would allow occupational therapists to provide services to patients in the home, after the patient has suffered a stroke and such services will be reimbursed at \$50/visit.

Additionally, unlike statutory changes, these waivers could be revoked quite easily. For example, when a new administration is installed, the new Secretary can decide to alter or eliminate some of the waivers implemented by the preceding Secretary. Unlike a statutory requirement, these changes can be done quite quickly and easily and without any Congressional action.

## 2. Program Integrity

The proposals in the CONNECT Act related to program integrity include:

- Providing the Inspector General in the Health and Human Services Department \$3 million to conduct audits, investigations and other duties to ensure program integrity.
- Additionally, the Secretary shall make training and education resources available to providers and beneficiaries so they are aware of these changes and opportunities.

## 3. Data & Testing Models

- The Secretary will collect and analyze data for both telehealth and communications technology based services (CTBS) that are permitted through these modifications or waiver process which may include the collecting of data related to:
  - o Utilization rate
  - o Quality
  - o Health outcomes
  - o Audio-only
  - o Waivers of State licensure requirements
  - o Types of technologies utilized to deliver or receive telehealth care and utilization rates
  - o Challenges for providers in using telehealth
  - o Investments necessary for providers to provide telehealth services
  - o Any additional information
- There will be both an Interim and Final Report to Congress. Certain stakeholders including nongovernmental ones must be sought out for input.
- There will be an analysis of telehealth waivers in alternative payment models
- A model to allow additional health professionals to furnish services via telehealth
- Testing of models to examine the use of telehealth in Medicare

## Additional Item to Note

- Recertification of hospice care via telehealth will be allowed to continue beyond the PHE. Not later than three years afterwards, there is to be a GAO report to Congress regarding the impact of this change.

