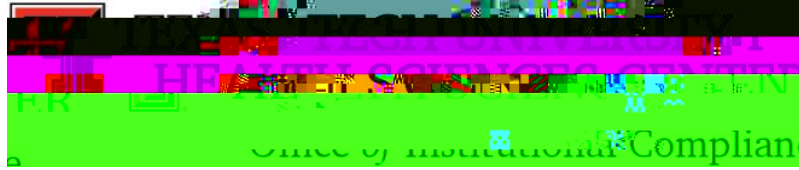




End of COVID-19 Public Health Emergency

Status of CMS Waivers and Flexibilities

- CO



## Resident Supervision

Previous Guidance issued before May 12<sup>th</sup>:

After **May 11, 2023**, virtual supervision\* of residents is only be allowed in rural areas (defined as non-metropolitan statistical areas (MSAs)^).

Only teaching physicians in residency training sites located outside of a MSA may meet the presence of the key portion requirement through audio/visual real-time communications technology.

\*physician supervision provided virtually using real-time audio/video technology

^MSA is a geographic entity based on a county or a group of counties with at least one urbanized area with a population of at least 50,000 and adjacent counties with economic ties to the central area, e.g., Lubbock, Amarillo, Midland, Odessa, Abilene.

<https://www.cms.gov/files/document/teaching-hospitals-physicians-medical-residents-cms-flexibilities-fight-covid-19.pdf>

## Resident Supervision

NEW UPDATE as of May 12, 2023:

Through [December 31, 2023](#), CMS is exercising enforcement discretion to allow teaching physicians in MSAs to be present virtually, through audio/video real-time communications technology, for purposes of









## Residents Providing Telehealth Visits

NEW UPDATE as of May 12, 2023:

Through December 31, 2023, CMS is exercising enforcement discretion to allow teaching physicians in MSAs to be present virtually, through audio/video real-time communications technology, for purposes of billing under the PFS for services they furnish involving resident physicians.

[CMS Waivers, Flexibilities, and the End of the COVID-19 Public Health Emergency: Frequently Asked Questions](#)





## Cost Sharing Obligations (coinsurance and deductibles)

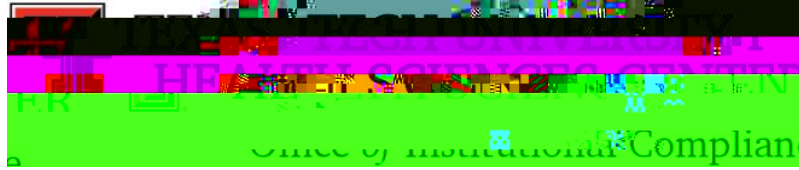
- During the PHE, OIG did not enforce cost sharing requirements for telehealth services provided to Medicare beneficiaries, i.e., institutions had the option of waiving coinsurance and deductible payments by Medicare beneficiaries.
- After **May 11, 2023**, cost sharing requirements (e.g., coinsurance and deductible) are enforced.



## Remote Patient Monitoring (RPM)

After the PHE ended on **May 11, 2023**, CMS requires that RPM services are furnished only to established patients and the remote monitoring must be for 16 or more days of data in a 30-day period for billing.

<https://www.cms.gov/files/document/physicians-and-other-clinicians-cms-flexibilities-fight-covid-19.pdf>



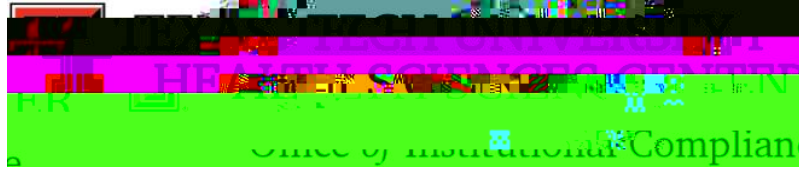
## Virtual Check-In's

Virtual check-ins are brief communications with providers via various technologies, including telephone, secure text messages, email, patient portal, audio-visual (Zoom).

After the PHE ended on **May 11, 2023**, virtual check-in codes are allowed for established patients only.

## E-Visits

An e-visit is a non-face-to-face communication between a patient and their provider through an online patient portal



## CR Modifier and DR Condition Code After PHE Ends

After **May 11, 2023**, neither the CR modifier or DR condition should be reported:

CR: disaster-related (indicates services were rendered to victim of a declared disaster).

DR: disaster-related claim covered by blanket waivers

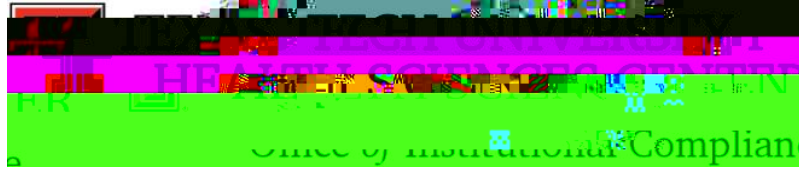


## Inpatient Rehabilitation Facility (IRF)

After **May 11, 2023**, rehab physicians are required to visit IRF patients face-to-face at least three times per week, and are no longer allowed to be performed as telehealth.

In-person, weekly interdisciplinary team meetings are expected. Rehab physicians may lead remotely using video, telephone conferencing, or other technology.

<https://www.cms.gov/files/document/inpatient-rehabilitation-facilities-cms-flexibilities-fight-covid-19.pdf>



## HIPAA Compliance

Beginning **August 10, 2023**, telehealth platforms must be HIPAA compliant. Until that date OCR will continue to exercise its enforcement discretion and will not impose penalties on covered health care providers that make good faith provisions of telehealth.



## Who Can Provide Telehealth Services?

### Permanent:

- Physicians, nurse practitioners, physician's assistants, nurse midwives, certified nurse anesthetists, clinical psychologists, social workers, registered dietitians, and nutrition professionals

### May Provide Telehealth Services Until [December 31, 2024](#):

- Physical therapists, occupational therapists, audiologists, and speech language pathologists





## Reporting Address of the Location of Provider

Beginning **January 1, 2024**, Practitioners who render telehealth services from their home will be required to report their home address on the Medicare enrollment.

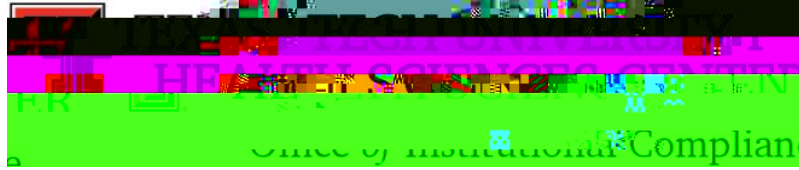
<https://www.cms.gov/files/document/teaching-hospitals-physicians-medical-residents-cms-flexibilities-fight-covid-19.pdf>



## Telehealth Services - Medicare

Through **December 31, 2024**, people with Medicare can access telehealth services in any geographic area in the United States, i.e., does not have to be in a rural area/non-MSA, including in their homes.

<https://www.cms.gov/files/document/mm12982-medicare-physician-fee-schedule-final-rule-summary-cy-2023.pdf>

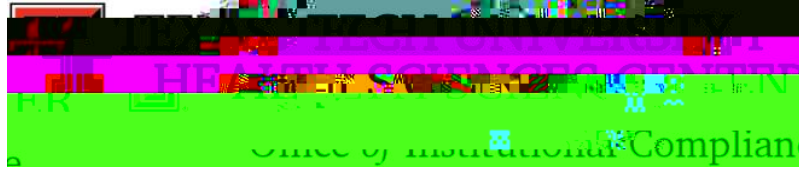


## Patient Location for Telehealth Services

Beginning **January 1, 2025**, telehealth will only be covered in rural areas (non-metropolitan statistical areas<sup>^</sup>) and the patient may not be in his/hers home, i.e., must be at an originating site (hospital, clinic, physician office, etc.)

<sup>^</sup>MSA is a geographic entity based on a county or a group of counties with at least one urbanized area with a population of at least 50,000 and adjacent counties with economic ties to the central area, e.g., Lubbock, Amarillo, Midland, Odessa.

<https://www.appropriations.senate.gov/imo/media/doc/JRQ121922.PDF>



## Patient Location for Telehealth Services - Mental Health Services and Substance Use Disorder

Treatment for substance use disorder and mental health services can be provided in any geographic region and in the patient's home permanently.

Place of Service -

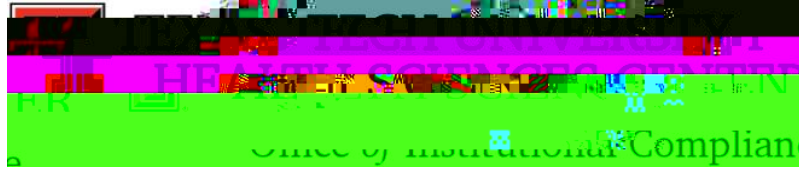


## In-Person Visit Requirement for Mental Health Services

Through **December 31, 2024**, many behavioral health and education services can be furnished using audio-only technology.

Beginning **January 1, 2025**, for mental health services, the patient must be seen in person within 6 months prior to telehealth visit. The in-person visit can be provided by physicians in the same specialty and group practice.

A subsequent in-person visit each 12 months is required for mental health services, however, exceptions to the subsequent visit requirements are allowed.



## Controlled Substance Prescribing

- Telemedicine flexibilities for prescribing controlled medications were extended to November 11, 2023.
- After November 11<sup>th</sup>, an in-person visit will be required in order to prescribe controlled substances.
- The Ryan Haight Act does not limit a practitioner's ability to prescribe controlled medications for a patient after there has been at least one in-person medical evaluation.

[DEA, SAMHSA Extend COVID-19 Telemedicine Flexibilities for Prescribing Controlled Medications for Six Months While Considering Comments from the Public](#)



## Telephone E/M Visits

Through **December 31, 2024**, Medicare payment for telephone E/M visits (CPT codes 99441-99443) is equivalent to an established office/outpatient visit.

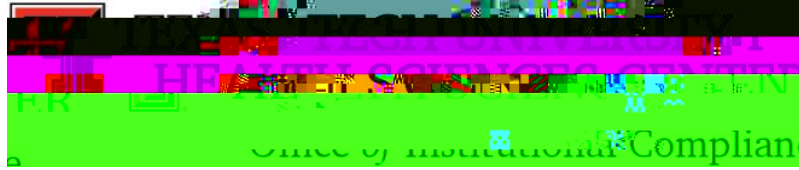
<https://www.cms.gov/files/document/mm12982-medicare-physician-fee-schedule-final-rule-summary-cy-2023.pdf>





## Out-of-State Patients

After the PHE ends on May 11, 2023 and permanently thereafter, the states will determine whether or not a provider



## Licensure

### New Mexico

- The NM medical board shall issue a license physician a telemedicine license to allow the practice of medicine across state lines.

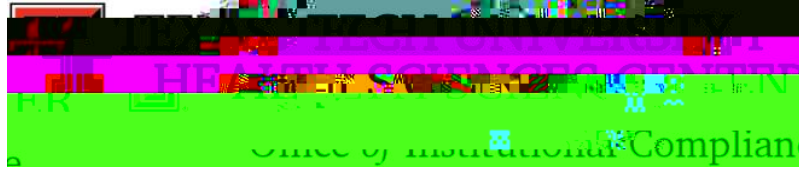
### Kansas

- Notwithstanding any other provision of law, a physician holding a license issued by the applicable licensing agency of another state or who otherwise meets the requirements of this section may practice telemedicine to treat patients located in the state of Kansas, if such physician receives a telemedicine waiver issued by the state board of healing arts

### Oklahoma

- Physician treating patients in OK through telemedicine must be fully licensed in OK.

For more information on specific states' licensure requirements, refer to the Federation of State Medical Boards (last update: March 13, 2023).



## State Governance

Treating New Mexico patients – malpractice case brought in NM.

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## References:

AAMC: COVID-19 PHE Waivers and Flexibilities: Status Update April 11, 2023

AAMC: End of the COVID-19 PHE April 28, 2023

This presentation and other resource information on the end of the COVID