



# Provider Newsletter

2020 Q2

## Relaxing telehealth regulations does not mean relaxing fraud enforcement

By Patricia Calhoun | FierceHealthcare

The COVID-19 pandemic rapidly expanded telemedicine use. Telehealth currently addresses everything from routine to pandemic-related care. To facilitate this expansion, federal healthcare programs have loosened, at least temporarily, telehealth restrictions. These eased restrictions, however, create increased opportunities for healthcare fraud and abuse, including Anti-Kickback Statute (AKS) and False Claims Act (FCA) violations.

### Recent telehealth regulation changes & telehealth scrutiny

The Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services adjusted their telehealth requirements to expand telehealth's ability to serve patients during the pandemic:

- Patients no longer need to reside in designated rural areas or have preexisting relationships with their providers.
- Patients can have their telehealth appointments from the convenience and safety of their homes without traveling to medical facilities.

... continued on page 3



## Free HIPPA Compliant Telehealth available to all ATA-FL providers

Your commitment is to care for your patients. Our commitment is to enable your success - providing free access to an approved telehealth solution is one more way we do it. Utilizing telehealth, you can transform your practice into a 24/7 virtual care office without adding staff or equipment. In addition, you can video call patients on a HIPAA-compliant platform, while avoiding sick or at-risk patients visiting your office.

With dozens of vendors to choose from, selecting a telehealth solution can be an overwhelming

task. Many of our providers have asked for our assistance in identifying an approved platform. We're pleased to announce a partnership with AllHealth CHOICE, a leader in telehealth.

You are under no obligation to use MyCharlie by AllHealth CHOICE, but if you choose to, **we'll cover the cost of a standard package until November 30, 2020.** The package is anything but standard - it includes everything you need to effectively and immediately deliver telehealth services.

... continued on page 2

...continued from page 1

## Free HIPPA Compliant Telehealth available to all ATA-FL providers

**All you have to do to take advantage of this offer is contact an AllHealth CHOICE representative at 844-334-0456 and let them know you are a ATA-FL provider.**

### MyCharlie Advantages:

**Quick Set Up:** Onboarding takes less than 24 hours.

**Multi-Communication Channels:** Use screen shares with patients/family members/specialty physicians and online chats during the virtual consultation.

**Revenue Generation:** Most telehealth visits are reimbursed like an in-office visit.

**Easy to Use Dashboard:** Patients access the platform via an app for both Android and iOS. Providers access their dashboard to add people to a virtual consult; screen share, chat, broadcast messages and use other functions.

We understand that many providers continue to endure long wait times to get started with telehealth, while others are concerned about the cost or compatibility. Our partnership with AllHealth CHOICE helps eliminate those barriers.

For more information, please contact an AllHealth CHOICE representative at 844-334-0456. You may also contact your ATA-FL Provider Relations Representative at 1-888-550-8800 for additional questions regarding this partnership.

## Fraud, Waste & Abuse

All ATA-FL providers are required to report concerns about actual, potential or perceived misconduct to the HN1/ATA-FL Corporate Compliance Department at:

**1 (866) 321-5550**

## Annual Quality Improvement Documents

Annually the Quality Improvement (QI) Department develops Quality documents, which includes a QI & UM Evaluation, Program Description, and Work Plan. The development of the Quality documents satisfies Health Plan and NCQA Accrediting body requirements. The QI & UM Evaluation analyze the QI department's previous year quality indicators, key accomplishments, identify any areas needing improvement, and develop action plans to improve results. The Program Description and Work Plan establish objectives, goals, QI activities, and the QI Program Structure for the current year. Copies of the annual QI documents are available by contacting the QI department at the address below.

**2001 South Andrews Avenue  
Fort Lauderdale, FL 33316  
Phone: 800-422-3672 Ext. 4701  
Fax: 305-614-0364**

## Clinical Practice Guidelines

ATA-FL uses Apollo, Milliman Care, or our Health Plan partner Clinical Guidelines (depending on the LOB) for Medical necessity determinations. These guidelines are based on appropriateness and medical necessity standards; each guideline is current and has references from the peer-reviewed medical literature, and other authoritative resources such as CMS Medicare. For any medical necessity Recommendation of Denial, the Medical Director shall make an attempt to contact the requesting provider for peer to peer consultation. The Apollo, Milliman Care, or our Health Plan partner Clinical Guidelines are reviewed and approved by HS1 Medical Advisory committee annually, and are available in both electronic and hard copy format. If a provider would like a copy of a guideline that was used to make a clinical determination on a specific case, they may contact their assigned Provider Relations Representative and a copy will be provided.

## COVID-19 Relief Help

We salute and admire our provider's commitment to their communities. You've made a conscious choice to run toward calamity, not away from it. Please complete our survey to let us know how you are doing and if you are in need of supplies to open your office or to maintain your offices open.



<https://ataflorida.com/covid19survey/>

... continued from page 1

## Relaxing telehealth regulations does not mean relaxing fraud enforcement

- More services can now be offered via telehealth, including evaluations to determine continued eligibility for hospice care.
- Telehealth providers can waive patient deductibles and copayments without penalties for offering impermissible kickbacks.
- In some circumstances, Medicare and Medicaid no longer require physicians to be licensed in the state in which their patients are located.
- Providers can use a number of everyday communication technologies to provide telehealth services without being fined by HHS' Office for Civil Rights. Providers are, however, required to make good faith efforts to protect patients' privacy, including, among other things, enabling all available encryption and privacy settings and notifying patients of the increased risk of using such technologies.

Despite these changes, some constants remain, such as the scrutiny telehealth providers face from regulators, particularly for AKS and FCA violations.

In the past year, well before the rise of COVID-19, telehealth providers saw two of the biggest Department of Justice (DOJ) takedowns in history for rampant kickback and fraudulent billing schemes. First, in April 2019, the DOJ charged 24 telemedicine and durable medical equipment company executives and physicians for allegedly paying \$1.2 billion in illegal kickbacks and bribes related to prescribing unnecessary back, wrist, shoulder and knee braces.

Second, in September 2019, the DOJ charged 35 individuals in a \$2.1 billion fraudulent Medicare billing scheme involving alleged kickbacks to telehealth providers ordering genetic tests. Regulators made clear that COVID-19 will not reduce their focus on prosecuting wrongdoing.

For example, the DOJ recently arrested a Georgia man for his alleged role in a conspiracy involving unnecessary COVID-19 tests. Pandemic or not, the telehealth industry is firmly in the crosshairs of heightened government scrutiny and oversight.

### Changed regulations may increase, rather than decrease, enforcement actions

While easing regulations lead many to assume a decrease in enforcement actions, enforcement actions may increase as

regulators respond to new opportunities for fraud. Specifically, telehealth services make it easier for fraudsters to pose as physicians and lure patients into sharing their protected health information or installing malware on their devices.

The relaxed telehealth regulations greatly expand the number of patients for whom fraudulent claims can be submitted. Reduced cybersecurity requirements for telehealth communications increase the risk of hackers intercepting or stealing the protected health information necessary to submit fraudulent claims or commit healthcare identity theft.

Such practices will not go unchecked, and telehealth providers should establish protocols to keep from being unwittingly pulled into the crosshairs.

## 10 considerations to reduce the risk

- Establish mechanisms to verify patient identity.
- Establish or maintain protocols for informed consent and beneficiary initiation.
- Identify states that have waived in-state licensure requirements for telehealth, and establish protocols for disengaging telehealth with patients where the provider is not licensed in the patient state after the pandemic emergency is lifted.
- Establish practice standards for patient examinations and remote prescribing.
- Document and maintain patient encounter records, including all regularly mandated documentation (such as patient eligibility for hospice care).
- Properly code telehealth services to ensure coverage.
- Review vendor agreements and patient incentives to ensure compliance with the AKS, FCA and Civil Monetary Penalties Law.
- Ensure compliance with state credentialing and scope of practice requirements.
- Establish privacy and security protocols for telehealth offerings and related systems.
- Notify patients of the increased risk of privacy issues when using telehealth services and strongly consider using telehealth vendors willing to execute a HIPAA-compliant business associate agreement.



## Telemedicine Guidance and Attestations



In order to provide telemedicine services, you must complete the attestation(s) below. You are required to complete and return the attestation(s) so we can confirm your agreement with these regulations.

### Medicaid / Healthy Kids Version

 [https://ataflorida.com/pdf/Telemedicine\\_Guidance\\_Attestation\\_MCD\\_HK.PDF](https://ataflorida.com/pdf/Telemedicine_Guidance_Attestation_MCD_HK.PDF)

### Medicare / Commercial Version

 <https://ataflorida.com/pdf/Telemedicine-Guidance-Attestation-Medicare-ATA.pdf>



**AMERICAN THERAPY  
ADMINISTRATORS OF FLORIDA**