

The Rural Behavioral Health Access Act

Legislation to Allow Critical Access Hospitals to Be Reimbursed for Behavioral Therapy through Telehealth

Critical Access Hospitals Must Be Able To Leverage Telehealth To Meet The Behavioral Health Needs Of The Communities They Serve

Critical Access Hospitals (CAHs) are rural hospitals established by Congress to improve access to essential healthcare services in rural communities, which often experience a lack of access to providers. CAHs have been a lifeline to millions of rural Americans over the past twenty years, but they struggle to stay open.

The average overall operating margin of CAHs before the pandemic was just 0.17 percent¹ CAHs in 23 states were operating at negative margins. Today, the financial situation of CAHs is even more dire given the loss of billions of dollars in revenue as a result of the pandemic.

As more Medicare patients seek care from home and the behavioral health demands in rural areas exceed capacity, CAHs must be able to leverage telemedicine and bill for it to meet these pressing behavioral health needs.

The Rural Behavioral Health Access Act Would Allow CAHs to Meet the Needs of their Communities by:

- Allowing Medicare to provide payment for outpatient critical access hospital services consisting of behavioral therapy services when the individual is not located at the hospital.
- Allowing the initiation of a new patient relationship via telehealth, but requiring the creation of a plan of that includes in-person care in the future (*ensuring that these services are offered to the rural population the CAH is intended to serve*).
- Allowing the provision of behavioral therapy services through an audio-only interaction, but only if audio-visual capability is not available.

What is a Critical Access Hospital?

There are 1,350 CAHs located throughout the United States. To qualify, eligible hospitals must have:

- 25 or fewer acute care inpatient beds
- Be located 35 miles from another hospital
- Maintain an average length of stay of 96 hours or less for acute care patients
- Provide 24/7 emergency care services

Critical Access Hospitals



Why are CAHs Essential to America’s Rural Behavioral Health Infrastructure?

80 percent of rural counties do not have a psychiatrist, compared to 27 percent of counties in metropolitan areas. ⁱⁱ

85 percent of mental health professional shortage areas (HPSAs) were in rural counties as of a 2013 study. ⁱⁱⁱ

Suicide rates were **55 percent** higher in rural areas than in large urban areas before COVID-19 hit. ^{iv}

41 percent of Americans surveyed in June 2020 reported a worsening of behavioral health conditions due to the COVID-19 pandemic

How are Critical Access Hospitals Different?

Medicare generally covers the same services at CAHs as it does in other acute care hospitals. However, much like FQHCs and RHCs, the unique way that CAHs are paid does not enable these important facilities to fully benefit from changes to Medicare telehealth laws. Under section 1834(m)(2)(A) of the Social Security Act (the Act), which governs telehealth reimbursement in Medicare, Congress explicitly required the Secretary to pay “a physician or practitioner” for telehealth services. However, practitioners in CAHs do not always submit a professional service claim – sometimes the facility requests payment and then distributes the payment for professional services.

During the COVID-19 public health emergency (PHE), CMS clarified in its Interim Final Rule with Comment Period ^v that its “Hospitals-without-Walls” flexibilities effectively allow hospitals, including CAHs, to provide outpatient services to patients in their home via telecommunications technology. They are reimbursed as if they were providing these services in the facility setting.

In December 2020, Congress passed legislation allowing the Medicare program to cover the provision of mental health services offered in the patient’s home through telehealth. While this legislation was an important expansion of telehealth, it did not make permanent important flexibilities for CAHs to bill telehealth services as they have been during the PHE – using the existing CAH payment rates and payment structure. Without the important flexibility created by the Rural Behavioral Health Access Act, many CAHs will have significantly reduced capacity to provide behavioral health services through telehealth after the PHE.

The proposed legislation will enable CAHs to be reimbursed for outpatient behavioral therapy services provided via telecommunications technology after “Hospital-without-Walls” authority expires (the PHE authority).

Supporters of this Legislation Include:

- Alliance for Connected Care
- Ascension
- American Association for Psychoanalysis in Clinical Social Work
- American Association on Health and Disability
- Anxiety and Depression Association of America
- Association for Ambulatory Behavioral Healthcare
- Clinical Social Work Association
- International OCD Foundation
- Lakeshore Foundation
- Michigan Health and Hospital Association
- McKenzie Health
- Michigan Center for Rural Health
- National Association for Rural Mental Health
- National Association of County Behavioral Health and Developmental Disability Directors
- National Rural Health Association
- National Register of Health Service Psychologists
- National Organization of State Offices of Rural Health
- Postpartum Support International
- Psychiatric Medical Care

i. <https://3jzjstox04m3j7cty2rs9yh9-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/fmt-ds-31-20-20-1.pdf>

ii. [https://www.ajpmonline.org/article/S0749-3797\(18\)30005-9/fulltext](https://www.ajpmonline.org/article/S0749-3797(18)30005-9/fulltext). [ajpmonline.org]

iii. [Hoge, et al. Health Affairs, 2013](#)

iv. RUPRI, 2019 BH in Rural America Challenges and Opportunities

v. “Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program,” [85 Fed. Reg. 27550](#) (May 8, 2020).