

# The SUPPORT for Patients and Communities Act: Expanding Medicare Coverage of Telehealth Services to Combat the Opioid Crisis

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The SUPPORT for Patients and Communities Act (“[the Act](#)” or “the SUPPORT Act”), signed into law by President Trump on October 24, 2018, is intended to combat the growing opioid crisis in the United States. The Act aims at preventing opioid addiction and misuse and enhancing access to care for those who have substance use disorders.

A key aspect of the Act is the expanded Medicare coverage of telehealth services to beneficiaries in their home (see [Section 2001](#) of the Act). Currently, and historically, Medicare has restricted coverage of telehealth services to beneficiaries who reside within certain geographic rural areas and who seek such services at specific “originating sites” (patient beneficiary’s home is not included in the current

Medicare definition for “originating site”). The Act amends [42 U.S.C. § 1395m\(m\)](#) to eliminate these coverage restrictions for “an eligible telehealth individual with a substance use disorder diagnosis for purposes of treatment of such disorder or co-occurring mental health disorder, as determined by the Secretary [of Health and Human Services].” With this amendment in place, health care providers may now be reimbursed for providing eligible substance use disorder services to Medicare beneficiaries in their homes via telehealth. Although the Act does not provide for any “facility fee” reimbursement for telehealth services provided to beneficiaries in their homes, the Act requires reimbursement be provided to physicians and other health care practitioners furnishing these services at the same rate as they would otherwise receive if providing the same services in-person.

It is important to note that while Section 2001 of the Act takes effect on July 1, 2019, it authorizes the Secretary of the U.S. Department of Health & Human Services (“Secretary”) to implement these amendments immediately by creating a final interim rule. The Act also mandates that the Secretary report on the impact of this legislation on: (1) the health care utilization (and in particular, emergency department visits) related to substance use, and (2) “health outcomes related to substance use disorders,” including opioid overdose deaths. The Act provides \$3 million to the Centers for Medicare & Medicaid Program Management Account in order to carry out these reporting requirements, which must be completed within five years.

Another key aspect of the Act mandates that the U.S. Attorney General (“Attorney General”) promulgate *final* regulations that specify (1) “the limited circumstances in which a special registration under this subsection may be issued” and (2) “the procedure for obtaining a special registration.” Under [21 U.S.C. 831\(h\)](#), as amended by The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 (“[Ryan Haight Act](#)”), this special registration would allow health care providers to prescribe controlled substances via telemedicine when legitimately necessary, including when an in-person evaluation is not possible. As discussed in one of our recent TechHealth Perspectives [blog posts](#), despite the statutory mandate in the Ryan Haight Act passed more than eight years ago, the Attorney General has not yet issued any regulations or guidance on how to obtain this special registration. The Drug Enforcement Administration (“DEA”), the federal agency delegated authority to promulgate these regulations by the Attorney General, has also not promulgated any regulation or other guidance addressing special registration. The SUPPORT Act gives the Attorney General until October 24, 2019, to promulgate its final regulations on this matter.

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