

# New Federal Scrutiny of Telehealth Abuse Following the COVID Pandemic

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The COVID pandemic created unprecedented challenges for patient access to health care. In response, the federal government relaxed the requirements for telehealth services. Now that the COVID-19 crisis has abated, the federal government is taking a closer look at the widespread use (and potential abuse) of telehealth arrangements.

In a [Special Fraud Alert](#) on July 20, 2022, the Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (DHHS) issued new guidance concerning its oversight efforts to detect telehealth arrangements that violate federal law. In particular, the OIG intends to step up enforcement of the Federal Anti-Kickback Statute which can result in criminal and civil penalties for healthcare providers that engage in prohibited conduct.

Recently, the OIG has investigated a number of fraudulent telehealth schemes which have several common characteristics:

- The telehealth company engages a healthcare provider to order medically unnecessary equipment, medications or testing (e.g. genetic testing).
- The telehealth company solicits patients to purchase these items without regard to medical necessity.
- The provider, who does not have full access to the patient's medical history, orders or prescribes these items based only upon limited interaction with the patient online.
- The telehealth company or an affiliate fulfills the order, and the provider is compensated for this limited involvement.

The OIG has stated that by increasing its oversight, it does not intend to discourage legitimate telehealth arrangements that comply with federal payment and coverage requirements. Rather, the [OIG stated](#): "While the expansion of telehealth has been critical to maintaining beneficiaries' access to care, it is important that new policies and technologies, with [the] potential to improve care and enhance access achieve these goals and are not compromised by fraud, abuse, or misuse."

In the wake of the COVID pandemic, many healthcare providers are recruited to participate in telehealth arrangements. These arrangements can be highly lucrative and offer the provider the convenience of working remotely or from home. **However, before joining a telehealth arrangement, providers should assure themselves that the arrangement is legally compliant and will not result in criminal or civil penalties, or the exclusion from federal healthcare programs.**

If you have any questions regarding federal requirements for telehealth services, please contact partner [Chris Churchill](#) or any member of [Barley Snyder's Health Care Industry Group](#).

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