

# Insights

## Don't Lose Focus on Your Compliance with Important COVID-19 Requirements

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The HHS Office of Inspector General ("OIG") published its **intent** to review some key measures the Federal government made in response to COVID-19. Those key measures include the Medicare program's telehealth policy changes and oversight of funds disbursed to providers under the CARES Act and the Provider Relief Fund ("PRF"). While the OIG's review focuses on the Federal Government's oversight of these programs, its findings could result in provider audits and liabilities to participating providers for noncompliance. Health care providers should examine their compliance with rules and requirements with Medicare telehealth and their receipt of Federal funds, particularly compliance with any rules and requirements that have been revised (potentially multiple times) during the public health emergency, to reduce potential compliance risks and liabilities. The OIG will issue its findings for both reviews sometime in 2021.

### Medicare Telehealth Policies

The Centers for Medicare and Medicaid Services ("CMS") temporarily waived many telehealth rules and requirements to make telehealth services widely available during the COVID-19 public health emergency. The OIG intends to analyze billing patterns for Medicare telehealth services during the public health emergency and identified characteristics that may pose risks to the Medicare program. It is unclear whether the OIG review will result in specific noncompliance findings for Medicare providers or whether CMS will take further action to recover overpayments from Medicare providers due to noncompliance. CMS will likely implement additional policy changes for telehealth reimbursement after receiving the OIG's findings and recommendations.

### Provider Relief Fund

The Health Resources and Services Administration ("HRSA") oversees disbursement of funds from the PRF to hospitals and health care providers to mitigate the economic impact of COVID-19 on increased COVID-19 expenses and lost revenues. Providers accepting these funds and retaining them for at least 90 days became subject to their terms and conditions, including making certain attestations, quarterly reporting use of funds, and submission of revenue information and other reports. The OIG intends to review HRSA's controls over Medicare providers' compliance with the attestations, quarterly revenue submission, and use of funds reporting requirements.

To minimize potential risks, providers should review their Medicare telehealth billing policies and PRF compliance and review the OIG's findings once they are made available to the public. Providers should keep an eye on further changes that CMS and HRSA make in response to the OIG's findings to ensure ongoing compliance.

If you have questions about your compliance with these or other Federal and State regulatory requirements, contact **Brandon W. Shirley** or **Meghan M. Linvill McNab**.