
HHS Temporarily Allows Use of Consumer Audio or Video Chat Applications for Telemedicine Use

Medical Device Special Report - Published 3/20/2020

ECRI Recommendations

For Clinicians:
Be prepared to use consumer audio and video chat applications to communicate with patients as needed during the COVID-19 health emergency.

For IT/Security Staff:

- Draft temporary appropriate technology usage policies as needed to accommodate telemedicine use.
- Accommodate requests for access to non-public facing audio and video chat applications for telemedicine purposes as an appropriate business need.
- Consider role-based firewall or web-filtering rules.
- These changes represent temporary exceptions to existing rules and staff should be prepared to reestablish full compliance post crisis. Be prepared to roll back to appropriate telemedicine procedures post crisis.

Background

On March 17, OCR at HHS announced:

- “OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. This notification is effective immediately. “

- Notification of Enforcement Discretion for telehealth remote communications during the COVID-19 nationwide public health emergency
The announcement allows use of non-public facing audio or video chats for the purpose of communicating with patients during the COVID-19 public health emergency.

- This allowance is for all telehealth purposes and is not limited to COVID-19-specific diagnosis or communication.

Examples of non-public facing audio or video chats include:
- Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Skype

Public-facing applications that broadcast audio and video are not covered under the announcement and should not be used for telehealth. Applications that are public facing include:
- Facebook Live, Twitch, TikTok

Under normal circumstances, the use of consumer audio and video chat applications are generally noncompliant with the HIPAA Security Rule. Any communication applications use for telemedicine would require a Business Associate Agreement with the vendor.

Additionally, CMS announced waivers in requirements for telemedicine visit Medicare payments:

- “EXPANSION OF TELEHEALTH WITH 1135 WAIVER: Under this new waiver, Medicare can pay for office, hospital, and other visits furnished via telehealth across the country and including in patient's places of residence starting March 6, 2020. A range of providers, such as doctors, nurse practitioners, clinical psychologists, and licensed clinical social workers, will be able to offer telehealth to their patients. Additionally, the HHS Office of Inspector General (OIG) is providing flexibility for healthcare providers to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs.”

- Medicare Telemedicine Health Care Provider Fact Sheet

To learn how to become a member, contact us: clientservices@ecri.org

References & Source Documents


Comments

This alert is a living document and may be updated when ECRI receives additional information.

About ECRI

ECRI is an independent, nonprofit organization improving the safety, quality, and cost-effectiveness of care across all healthcare settings. With a focus on patient safety, evidence-based medicine, and health technology decision solutions, ECRI is the trusted expert for healthcare leaders and agencies worldwide. The Institute for Safe Medication Practices (ISMP) is an ECRI affiliate. Visit ecri.org and follow @ECRI_Org.