



December 13, 2022

MEMORANDUM FOR: CHRISTOPHER J. GODFREY
Director of Workers' Compensation
Programs

A handwritten signature in cursive script that reads "Carolyn R. Hantz".

FROM: CAROLYN R. HANTZ
Assistant Inspector General
for Audit

SUBJECT: Insights on Telehealth Use and Program
Integrity Risks in DOL Workers' Compensation
Programs During the Pandemic
Report Number: 19-23-002-04-001

As part of the Pandemic Response Accountability Committee's (PRAC)¹ effort to provide policymakers and stakeholders with information about the nature of telehealth and its use across federal health care programs, the Office of Inspector General (OIG) conducted an evaluation to: (1) examine the use of telehealth across the Department of Labor's (DOL) workers' compensation programs during the first year of the COVID-19 pandemic, and (2) identify emerging risks related to the use of telehealth.² The PRAC previously identified access to telehealth as a top challenge facing federal agencies in their COVID-19

¹ The PRAC was created by the Coronavirus Aid, Relief, and Economic Security Act to support and coordinate independent oversight of more than \$5 trillion in pandemic relief programs and spending. For more information, visit: <https://www.pandemicoversight.gov/>.

² We evaluated telehealth services provided by the Federal Employees' Compensation Act, Black Lung, and Energy programs. Because the Office of Workers' Compensation Programs does not maintain telehealth data on benefits paid by self-insured employers or insurance carriers, our evaluation did not include telehealth services in the Longshore program. Likewise, our evaluation only covered services provided by the Black Lung program that were paid out of the Black Lung Disability Trust Fund.

response efforts in both 2020 and 2021.³ OIGs from six federal agencies participated in this effort.⁴

To complete this evaluation, we reviewed the Office of Workers' Compensation Programs' (OWCP) policies and procedures, obtained information via interviews and questionnaires, analyzed OWCP telehealth services data, and reviewed OWCP referrals to OIG investigators. We evaluated telehealth services provided by OWCP during the pre-pandemic period (March 1, 2019, to February 29, 2020) and the pandemic period (March 1, 2020, to February 28, 2021).⁵ We conducted the evaluation in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency.

This memorandum provides a synopsis of our findings on the use of telehealth services and related program integrity risks specific to DOL's workers' compensation programs. For additional information and context on telehealth services in DOL's workers' compensation programs and in the selected health care programs from the five other participating federal agencies, see the PRAC's federal telehealth report, "Insights on Telehealth Use and Program Integrity Risks Across Selected Health Care Programs During the Pandemic," issued on December 1, 2022.⁶

Telehealth Use in OWCP Programs During the Pandemic

As a result of the COVID-19 pandemic, the Federal Employees' Compensation Act (FECA), Black Lung, and Energy programs instituted new policies that expanded access to telehealth for injured workers by allowing routine medical care to be provided through telehealth by certain types of medical care practitioners. The Energy program further expanded telehealth services, temporarily allowing physicians to evaluate claimants through telehealth to determine a need for home health care or durable medical equipment. Prior to the pandemic, only the FECA program allowed telehealth.

Dramatic Increase in Use of Telehealth. All three workers' compensation programs experienced dramatic increases in the use of telehealth during the first year of the pandemic compared to the prior year. From March 2020 to

³ These two PRAC reports were: [Top Challenges Facing Federal Agencies: COVID-19 Emergency Relief and Response Efforts](#) (June 2020); and [Update: Top Challenges in Pandemic Relief and Response](#) (February 3, 2021).

⁴ In addition to the Department of Labor, the other participating agencies were the Department of Health and Human Services, the Department of Defense, the Office of Personnel Management, the Department of Veterans Affairs, and the Department of Justice.

⁵ The participating OIGs determined the pre-pandemic and pandemic periods for the evaluation.

⁶ PRAC, *Insights on Telehealth Use and Program Integrity Risks Across Selected Health Care Programs During the Pandemic* (December 2022); available at: <https://www.pandemicoversight.gov/oversight/our-publications-reports/what-we-learned-about-federal-telehealth-programs>

February 2021, OWCP claimants used about 58,000 telehealth services. This amounted to 34 times more telehealth services than the prior year when about 1,700 telehealth services were used.

Used Mostly by FECA Claimants. Most of the telehealth services during the pandemic (about 55,000 or 95 percent of total telehealth services provided) were used by claimants in the FECA program. Black Lung claimants used 336 services via telehealth, and Energy claimants used about 2,400 services.

Paid over \$7.3 Million. For claimants enrolled in the FECA program, OWCP paid about \$7 million for telehealth services, which was almost 34 times more than it paid the prior year. For the Energy program, OWCP paid about \$300,000 during the pandemic compared to just \$1,200 in the prior year.⁷ For the Black Lung program, OWCP paid about \$27,000 during the pandemic—telehealth was not an allowable service in the prior year.

Used Mostly for Office Visits and Behavioral Health Services.

Ninety-three percent of all telehealth services during the first year of the pandemic were for office visits and behavioral health services. Office visits included routine appointments with primary care providers or specialists. Behavioral health services included individual therapy, group therapy, and substance use disorder treatment, among others. Other telehealth services included physical, occupational, and speech therapy, as well as virtual care services, such as telephone calls with a provider or interactions via an online patient portal.

Program Integrity Risks Associated with Telehealth

All three OWCP programs indicated they saw no additional risk associated with telehealth compared to in-person services because either telehealth was not a significant part of the program services or existing controls mitigated the potential integrity issues. However, OWCP found, through its analysis of medical benefit payment data, the following potential program integrity risks associated with telehealth:

- **Providers may bill for services or supplies that were not rendered.** For example, a provider billed a claimant for oral medication and topical products that were dispensed in-person by a physician; however, a shelter-in-place law was in effect and the claimants were probably not going to the doctor's office.
- **Providers may bill for services that are not necessary.** For example, a provider who prescribed physical therapy dramatically increased the number of office visits billed after the pandemic

⁷ Although telehealth was not specifically authorized prior to the pandemic, the Energy program paid for the services if appropriate for the medical condition.

began early 2020. Medical reports indicated the office visits occurred via telehealth.

- **Providers could upcode billing.** For example, a provider treated a claimant twice weekly for 45 to 50 minutes, including phone consultations, but used an inappropriate billing code that represented 60 minutes of psychotherapy, which reflected more expensive treatment instead of a more appropriate 45-minute code.
- **Providers could treat claimants without required supervision.** For example, a provider allegedly performed medical evaluations on claimants from a remote location through telehealth using untrained and unsupervised technicians.
- **Providers could bill without appropriate billing codes.** OWCP noted that several providers supplied services via telehealth, according to the medical records, but had not used a telehealth modifier when submitting bills.

Additional Safeguards to Consider

OWCP programs rely on medical bill payment processing edits and also monitor telehealth data to safeguard against program integrity risks. However, in its analysis of medical benefit payment data, OWCP found many of the bills for telehealth services did not include proper telehealth modifier codes. Our analysis of OWCP's telehealth data confirmed that 35 percent of the telehealth services provided during the pandemic lacked telehealth modifier codes. Additionally, the Black Lung program expressed concern that it may not be able to identify and monitor telehealth service-related bills if medical providers are not consistently using the telehealth modifier codes. OWCP should consider developing additional guidance for providers to ensure the modifier codes are appropriately and consistently used on medical bills.

We appreciate the cooperation of the OWCP staff involved in this evaluation. If you have any questions regarding this report, please contact Stephen C. Sovich, Audit Director, via email at sovich.stephen@oig.dol.gov.

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