

# ALERT

July 2020

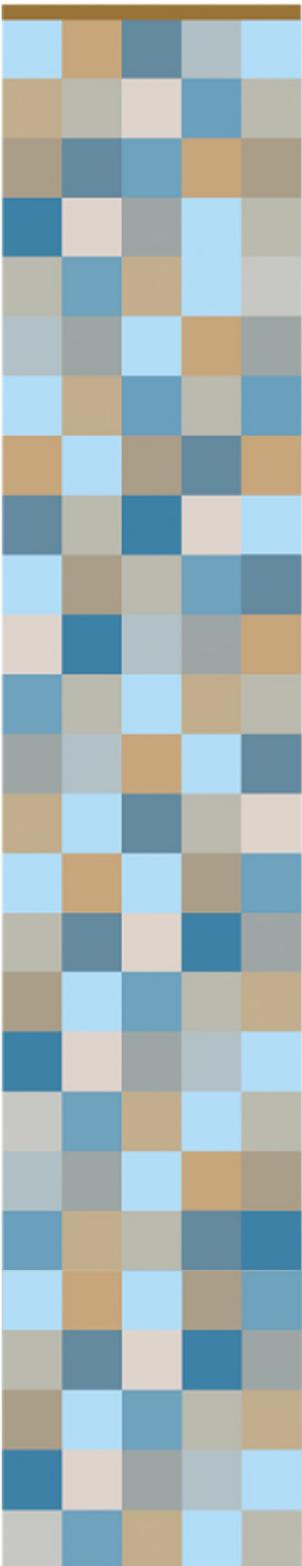
## **HHS Extends Public Health Emergency; Allows Telehealth Waivers To Continue**

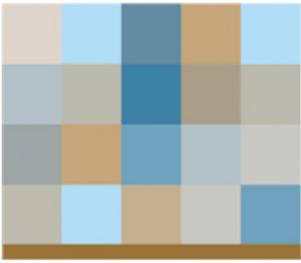
**By: Benjamin Geizhals & Caitlyn Ryan**

The Secretary of Health and Human Services announced a renewal of the nationwide public health emergency ("PHE") late on Thursday, July 23, 2020. The announcement came just two days before the then-current PHE designation was set to expire, and will extend the PHE for an additional ninety-day period. The PHE declaration, along with the Stafford Act Emergency Declarations, are directed at expanding access to critical resources during the global health crisis and increasing flexibility within the health care system.

The latest renewal of the PHE provides for the continuation of a number of significant regulatory changes and payment policies enacted throughout the course of the pandemic. This includes, for example, the increased Medicaid matching rates, the requirement that insurers cover COVID-19 testing without cost-sharing, and the 20% add-on payment for services provided to coronavirus patients under Medicare. Further, the renewal permits the continuation of the waivers in connection with telehealth visits, which have increased more than 8,000% nationwide over the past year. Some of the major waivers include, without limitation, the following:

- the relaxation of various HIPAA requirements, which, in part, allow additional modalities to be utilized in connection with the provision of health care services (e.g., Skype, FaceTime and WhatsApp);
- the temporary elimination of the Medicare requirement that the originating site be a physician's office or other authorized healthcare facility (thereby allowing patients to receive virtual treatment in their homes);
- coverage of both audio and video telehealth visits;
- the waiver of the Medicare established relationship requirement;
- the expansion of services provided via telehealth (e.g., occupational therapy, mental health counseling, emergency department visits);





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- flexibility for health care providers in reducing and/or waiving cost-sharing for telehealth visits paid by federal healthcare programs (in fact, with the support of the OIG, many states have encouraged health insurance issuers to cover robust telehealth services without cost-sharing); and
- reimbursement by Medicare of telehealth services at the same rates as if the services were furnished in person.

The renewal of the PHE is a welcome development for health care providers and patients alike. It assists health care providers in their continued fight against the coronavirus, and gives patients uninterrupted access to health care services during the pandemic. The attorneys at Moritt Hock & Hamroff are closely monitoring federal and New York State health care developments, and are here to help you navigate the same.

If you have any questions, please feel free to reach out to our Healthcare attorneys Benjamin Geizhals at (516) 880-7295 or [bgeizhals@moritthock.com](mailto:bgeizhals@moritthock.com) and Caitlyn Ryan at (516) 265-1156 or [cryan@moritthock.com](mailto:cryan@moritthock.com).



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