Telehealth Growth Trends Highlight Emerging Risks

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Widespread restrictions on interpersonal interaction during the COVID-19 pandemic have spurred a substantial shift in delivery of health care from traditional in-person settings to virtual or remote telehealth visits.

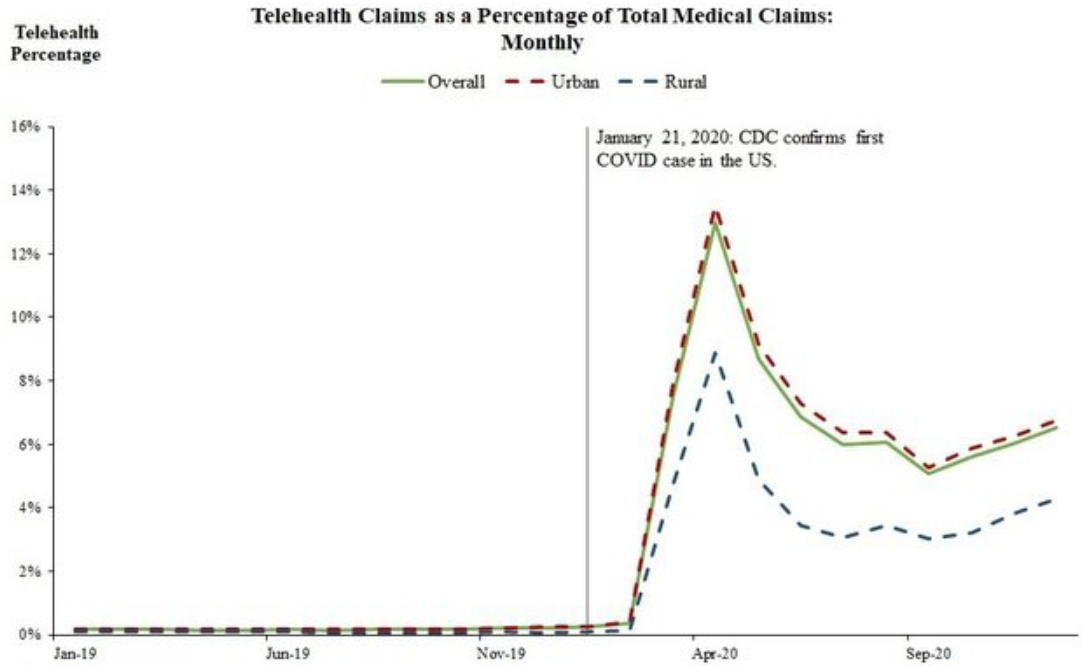
In this context, policymakers and regulators have been grappling with how to allow patients and payors to reap the benefits of telehealth while protecting them from its potential harm.[1, 2]

At the same time, health care providers have been forced to learn a set of previously unfamiliar billing and coding rules.[3] Taken together, this has led to a new dynamic at play in the provision of health services with potential for fraud, abuse and misuse.[4]

This, in turn, is likely to result in ongoing increased scrutiny by government investigators of all participating parties.[5]

As shown in the chart below, in April 2020, telehealth services peaked at 13% of total medical claims before leveling off at 6% more recently.[6] The graph shows the percentage of medical claims denoted as telehealth in each month between January 2019 and December 2020.[7]

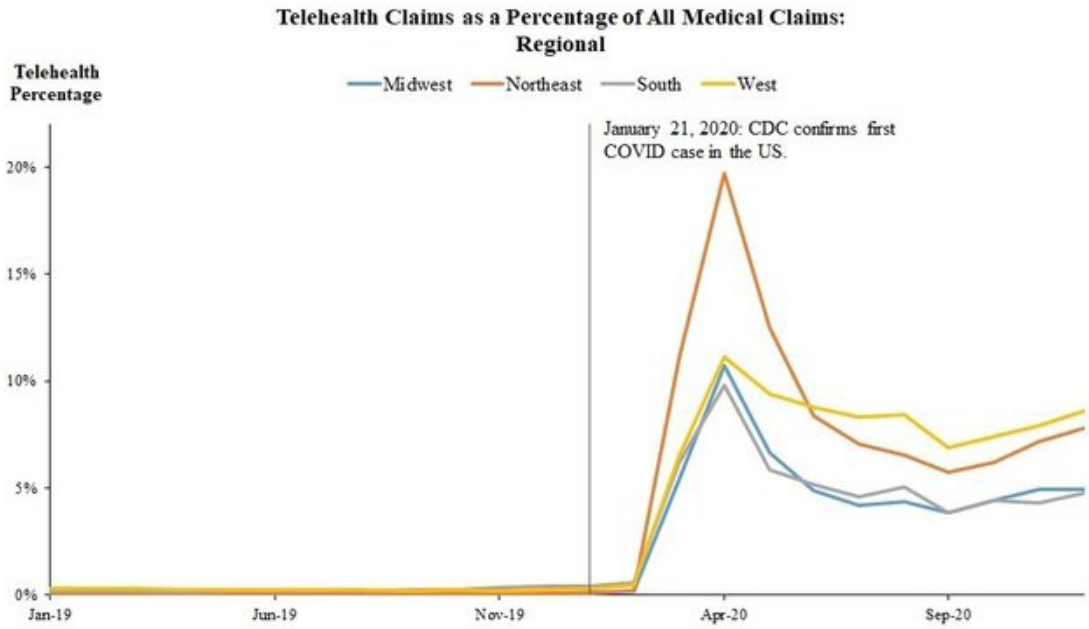
The sudden increase in use of telehealth services during the pandemic has not been evenly distributed geographically.



For example, urban counties experienced a much more sizable increase compared with rural counties — peaking at 14% in urban counties versus 9% in rural counties, and leveling off at 7% in urban counties versus 4% in rural counties.[8] In addition, use of telehealth service spiked in the Northeast to twice the level observed in other regions of the U.S., while the West has seen the highest rate of sustained use in more recent months.[9]

These differences across geographic regions can be attributed to differences in access to reliable internet connectivity in urban and rural areas and differences in response to the COVID-19 pandemic across U.S. regions.[10]

The graph below shows the percentage of medical claims denated as telehealth in each region for each month between January 2019 and December 2020.[11, 12]

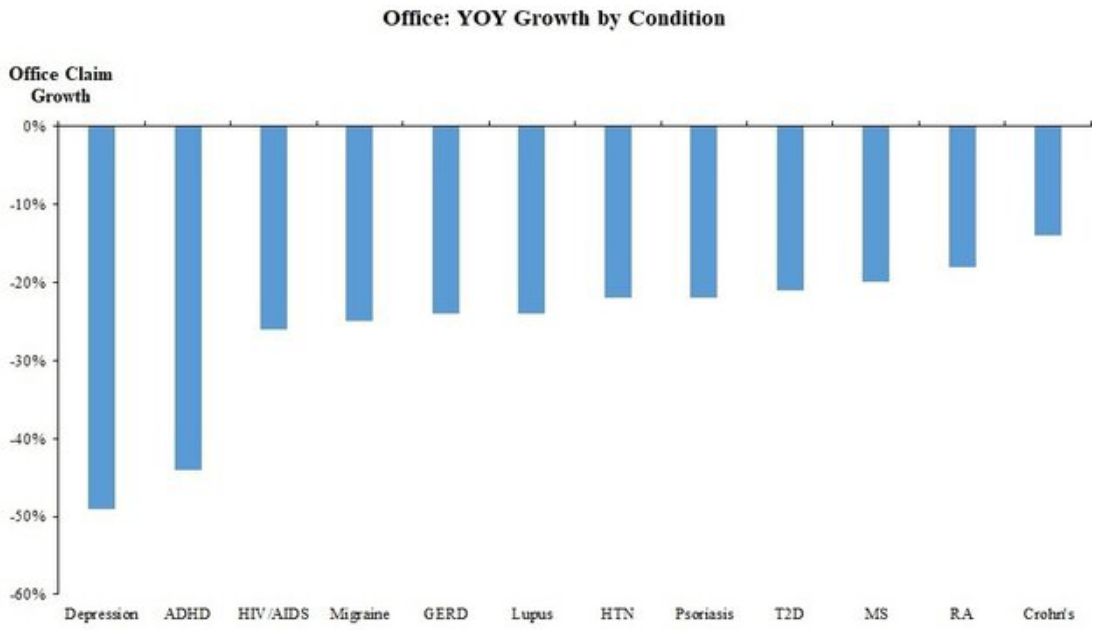


Since the start of the pandemic, the frequency of office visits has also varied substantially by therapeutic area. As shown in the graphs below, in-office claims for Crohn's disease and arthritis declined by 14%-18% relative to their prepandemic levels, while in-person visits for mental illnesses such as depression and ADHD declined by 44%-49%.[13]

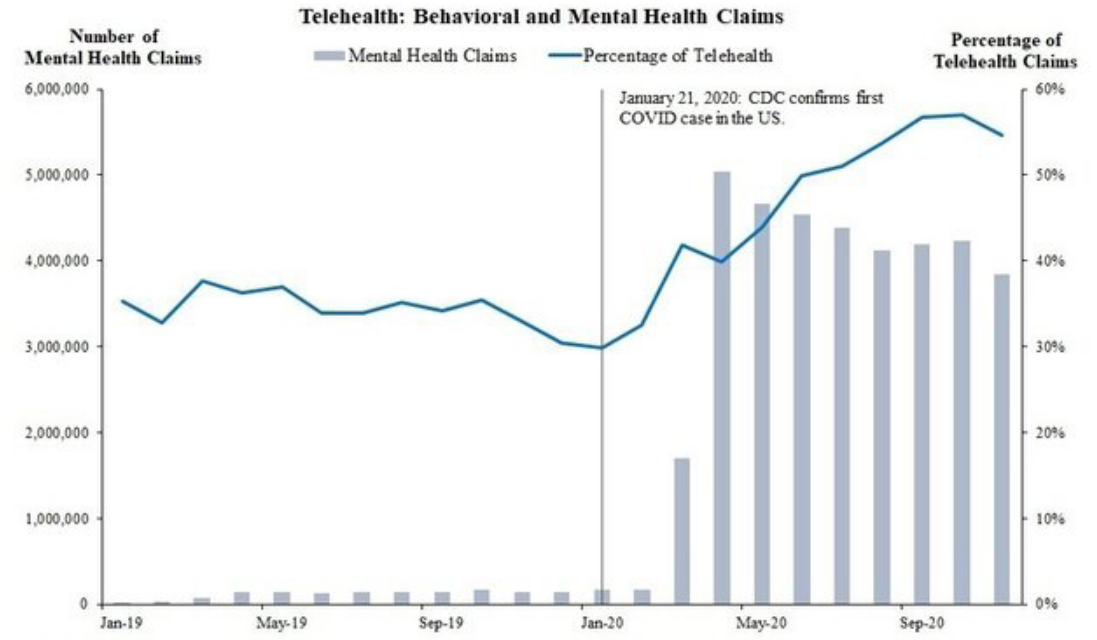
The shift from in-person to remote visits with health care professionals has been particularly pronounced for treatment of mental illnesses, with telehealth in this therapeutic area growing from 30% of all telehealth claims in January 2020 to 55% during the pandemic even as the number of claims for mental illness has skyrocketed.[14]

Another therapeutic area with notable growth in this context has been oncology. The share of telehealth claims in this practice area was virtually nonexistent before the pandemic, but peaked at 10% of medical claims in the end of April 2020 before leveling off at 4%.

The graph below compares the year over year growth of office medical claims for different conditions. The comparison is between diagnosis visits in the week ending Jan. 1, 2021, and the week ending in Jan. 31, 2020.[15, 16]



The next graph shows the number of telehealth claims categorized as behavioral and mental health claims and the percentage of telehealth claims categorize as behavioral and mental health.[17,18]



This shift in health care delivery has uncovered the benefits remote visits offer to many patients. For example, telehealth has enhanced the ease and availability of care.

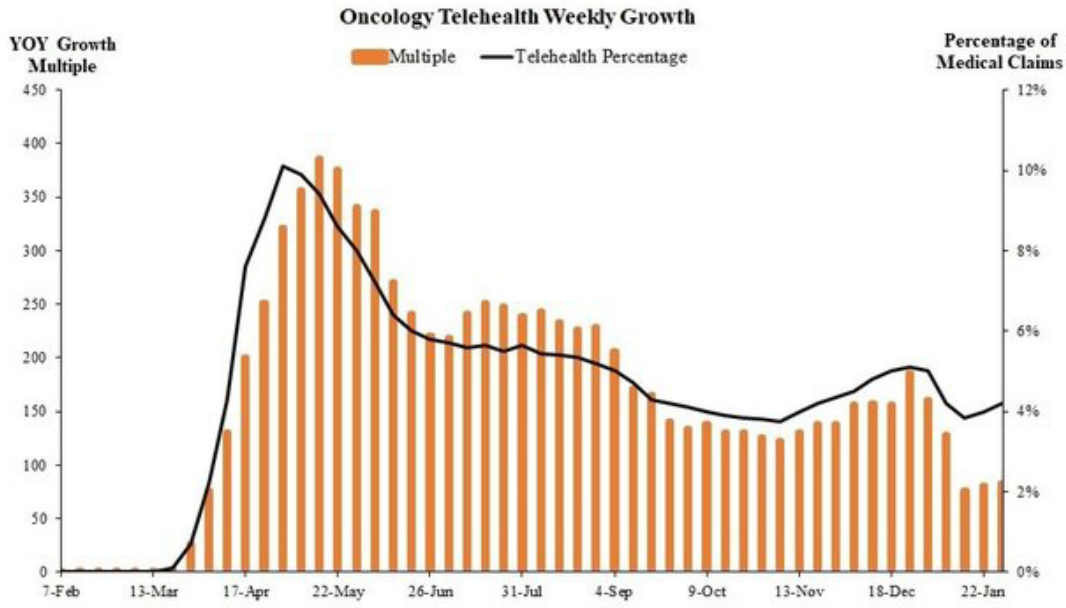
Particularly for mental health concerns, it can provide a convenient touchpoint that allows patients' needs to be more readily addressed. Patients can speak to their doctors between classes at school, while visiting a family member, or in the car after a long shift at work, lowering the barriers to treatment and follow-up.

Telehealth is particularly useful as an enhanced alternative to in-person care for complaints less dependent on a physical exam and for those where regular check-ins may be beneficial, but harder to achieve in person.

Yet in many cases, telehealth has limitations, and can lead to redundant health care utilization. Imagine that a mid-60s woman sets up a virtual visit regarding back pain. Unable to connect to the video platform, the visit is ultimately conducted by telephone.

She complains of severe back pain, limiting her ability to walk. While they can ask key questions, they are unable to do a thorough physical exam assessment of symptoms necessary for ruling out potentially dangerous diagnoses, resulting in the need for a follow-up in-person visit.

The graph below compares the year over year multiple of growth of telehealth medical claims in oncology by the week of the year. The analysis starts in Week 5, which compares the week ending on Feb. 7, 2020, with the week ending on Feb. 8, 2019. The analysis ands at Week 4, which compares the week ending on Jan. 29, 2021, with the week ending on Jan. 31, 2020.[19]



Although remote visits have their limitations; the sudden prominence of telehealth during the pandemic will likely continue on a more permanent basis, particularly as health care providers invest in infrastructure to effectively treat patients remotely.

Its continued use will usher in an era of enhanced legal scrutiny as telehealth providers must administer care in ways that are consistent with their professional duties of care and consistent with their contractual obligations to payors.

Recent examples of investigations in this context (e.g., Operation Rubber Stamp) point to a trend that is likely to grow with the increasing use of this care delivery platform.[20, 21]

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Endnotes

1 "Medicare Telemedicine Health Care Provider Fact Sheet," CMS, Fact Sheet, May 17, 2020, available at https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet.

2 "Audits of Medicare Part B Telehealth Services during the COVID-19 Public Health Emergency," US Department of Health and Human Services, Office of Inspector General, available at https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000556.asp.

3 "Telehealth, Electronic Records Draw Anti-Kickback Attention," Bloomberg Law, February 25 2021, available at https://news.bloomberglaw.com/health-law-and-business/telehealth-electronic-records-draw-anti-kickback-attention.

4 Id.

5 "Expect Aggressive Health Enforcement From Mass. US Atty" Jack Pirozzolo and Doreen Rachal, Law360, March 30 2021, available at https://www.law360.com/articles/1370431.

6 Monthly Telehealth Regional Tracker, FairHealth, available at https://www.fairhealth.org/states-by-the-numbers/telehealth.

7 Source: FairHealth Monthly Telehealth Regional Tracker.

8 Id.

9 Id.

10 Bagchi, A.D. "Expansion of Telehealth Across the Urban-Rural Continuum," State and Local Government Review, Voume 41 Issue 4, 2019.

11 The definition of the regions can be found in the following link: https://www.fairhealth.org/states-by-the-numbers/telehealth.

12 Source: FairHealth Monthly Telehealth Regional Tracker

13 "Monitoring the Impact of COVID-19 on the Pharmaceutical Market," IQVIA, April 9 2021.

14 "Telehealth Impact: Claims Data Analysis," The COVID-19 Healthcare Coalition Telehealth Impact Study Work Group, March 31 2021, available at https://c19hcc.org/telehealth/claims-analysis/.

15 Some of the abbreviations are the following: HTN - Hypertension, T2D - Type 2 Diabetes, RA - Rheumatoid Arthritis.

16 Source: Data derived from IQVIA presentation "Monitoring the Impact of COVID-19 on the US Pharmaceutical Market" published Feb. 12, 2021.

17 Data between September 2020 and November 2020 are incomplete due to lag time in reporting claims.

18 Source: COVID-19 Healthcare Condition Telehealth Impact Study Work Group - https://c19hcc.org/telehealth/claims-analysis/.

19 Data dervied from IQVIA presentation "Monitoring the Impact of COVID-19 on the US Pharmaceutical Market" published Feb. 12, 2021.

20 "Health Cos. Can Reduce FCA Risk By Leveraging Data" by Brenna Jenny, Mihran Yenikomshian and Paul Greenberg, Law360, March 3 2021, available at https://www.law360.com/articles/1360253/health-cos-can-reduce-fca-risk-by-leveraging-data.

21 "Operation Rubber Stamp: Major health care fraud investigation results in significant new charges," U.S. Attorney's Office Southern District of Georgia, October 7 2020, available at https://www.justice.gov/usao-sdga/pr/operation-rubber-stamp-major-health-care-fraud-investigation-results-significant-new.