

ATA & ATA Action’s 118th Congress Legislative Policy Priorities

The COVID-19 public health emergency (PHE) declared March 1, 2020 and expired May 11, 2023 afforded many telehealth legislative and regulatory flexibilities. ATA and ATA Action’s top legislative policy priorities involve making many of these flexibilities permanent post PHE. This chart details those policy flexibilities and legislative priorities, sorted from earliest to latest date of expiration.

Policy	Flexibility During the PHE	Expiration Date	Post PHE Policy Position	Legislation
Telehealth as an Excepted Benefit	The Departments of Labor, Health and Human Services (HHS) and Treasury (“tri-agencies”) issued enforcement discretion policy allowing self-funded employers to offer basic virtual care services to part-time, seasonal and contract workers who were not eligible for comprehensive health insurance.	Plan year 2023	Congress should allow telehealth as an excepted benefit, which would allow employers to offer it as an additional benefit to their employees without it being classified as full health insurance coverage. This designation does not relieve employers of their responsibilities to provide full health insurance coverage to their employees, nor does it exempt full health insurance coverage from any requirements. Essentially, it permits the inclusion of a supplemental telehealth benefit alongside comprehensive health insurance coverage.	Telehealth Benefit Expansion for Workers Act of 2023 (H.R. 824)
Remote Prescription of Controlled Substances	The Drug Enforcement Administration (DEA) waived the prior in-person requirement for the prescription of controlled substances via telehealth. For more information see the ATA’s FAQs document .	DEA issued a temporary rule extending the expiration to November 11, 2023 for new patients and to November 11, 2024 for established patients.	Congress should work with DEA to ensure that patients do not lose access to critical medications via telehealth.	No legislation introduced yet



Health.
Virtually.
Everywhere.



Policy	Flexibility During the PHE	Expiration Date	Post PHE Policy Position	Legislation
Medicare Telehealth	<p>Congress allowed HHS to waive telehealth restrictions allowing for:</p> <ul style="list-style-type: none"> • Geographic and originating site flexibilities • An expansion of eligible practitioners that are able to provide telehealth services, including physical therapist, speech therapist, occupational therapists (PT/OT/ST) • Allowing Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) to act as distant sites 	End of CY2024	<p>Congress should make the pandemic flexibilities listed permanent.</p> <p>Congress should give CMS the authority to determine which other flexibilities should be allowed, such as which services are covered by which provider type and which modality (including audio only).</p>	CONNECT for Health Act & Telehealth Modernization Act (<i>soon to be reintroduced</i>)
Medicare Telemental Health	Congress permanently removed the geographic and originating site restrictions on telehealth post-pandemic, but added a prior in-person requirement.	End of CY2024	Congress should remove the prior in-person requirement for telemental health.	Telemental Health Care Access Act (H.R. 3432)
First Dollar Coverage in High Deductible Health Plans	Congress allowed employees with high deductible health plans with health savings accounts (HDHP-HSAs) to obtain telehealth services pre-deductible.	End of CY2024	Congress should permanently allow telehealth services in HDHP-HSAs to be offered pre-deductible.	Telehealth Expansion Act (S.1001 , HR 1843)
Acute Hospital Care at Home Program	Under flexibility granted by Congress, CMS created the Acute Hospital Care at Home program, which allows hospitals to render at-home care and services to patients with acute conditions that would typically be treated in an inpatient setting by waiving CMS's 24-hour on-site nursing requirement for hospitals that participate in Medicare.	End of CY2024	Congress should allow CMS to operate this program permanently.	No legislation introduced yet