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Telehealth and Federal Disability Laws



Three federal civil rights laws that prohibit discrimination against people with disabilities apply to health care providers and cover both the in-person and telehealth services they provide. These laws are Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and Section 1557 of the Affordable Care Act (see links to these laws in the Resources section below). This fact sheet discusses how Section 504 and the ADA apply to health care providers' telehealth services.

Telehealth Services

Telehealth lets a health care provider offer care for patients without an in-person office visit. It is done mainly online with internet access on a computer, tablet, or smartphone. It includes remote health care appointments where the health care provider can talk with their patients over the phone or video chat. Telehealth also includes the ability of patients to send messages to and receive messages from their health care providers, and for a provider to remotely monitor a patient's health. (Telehealth may not be appropriate for all health care visits. For example, the provider may believe an in-person visit is medically necessary because they need to x-ray a patient's broken bone.)

As the use of telehealth increases, it is important for providers to make these services accessible to their patients with disabilities.

Federal Disability Laws that Apply to Telehealth

Overall, Section 504 and the ADA say that people with disabilities cannot face discrimination because of their disabilities. Also, individuals with disabilities must have equal opportunities to participate in and receive all the benefits of the services, programs, and activities offered by any entity covered by these laws.

Section 504 applies to health care providers that receive federal funding. The ADA applies to state and local government and private health care providers that provide services to the public.

In addition to their general non-discrimination requirements, Section 504 and the ADA require covered entities, including health care providers, to make reasonable modifications or changes to their policies, practices, and procedures when they are needed to avoid discriminating against individuals with disabilities. The laws also require that providers ensure effective communication when providing telehealth services.

Reasonable Modification and Telehealth

A health care provider often needs to make reasonable modifications or changes to policies, practices, and procedures when providing telehealth services. These changes can include giving more support to patients. A provider is not required to make changes that fundamentally alter or completely change the way telehealth services are provided.

Examples of reasonable modifications include:

- Giving extra time during a telehealth visit to a patient with a brain injury to ask questions and talk about their health situation.
- Assisting a patient with one hand to complete health care forms if they cannot complete the forms by themselves.
- Allowing a patient with an intellectual disability to have a support person with them during a telehealth visit to help the patient communicate their health care needs and understand information from the provider.

Effective Communication and Telehealth

A health care provider must communicate effectively with a patient who has one or more communication disabilities. Communication disabilities when using telehealth

include those that affect vision, hearing, speech, and/or fine motor skills. Section 504 and the ADA effective communication requirements apply to telehealth services and their related activities. These include communications about appointment scheduling, access to patient health care forms and records, and the telehealth visit itself.

A provider can communicate effectively by using aids and services that allow or improve communication. The type of aid or service to use depends on the patient's disability and how complicated the health information is. Examples of communication aids and services include sign language interpreters, captioning, large print documents, and software that reads the words on a computer screen.

A health care provider must ask a patient what communication aids and services will be effective for them. Once a patient's needs are known, the provider must plan the use of the communication aids and services in advance of any telehealth appointment. Local community-based organizations that serve people with communication disabilities, including independent living centers, can connect a health care provider to these aids and services.

Examples of effective communication in telehealth include:

- Allowing a telephone visit instead of a video visit for a blind patient when the telehealth video controls are not usable by the patient's screen reading software.
- Providing a sign language interpreter who is qualified to communicate medical terminology during a telehealth visit with a deaf patient who uses sign language.
- Mailing large print versions of documents as a follow-up to a telehealth visit.
- Including captioning and audio description of what is happening on the screen for health care videos on topics like nutrition or exercise.

Additional Information on Telehealth and Disability Laws

For more information on telehealth and disability laws, contact your Regional ADA Center at 1-800-949-4232 or visit www.adata.org.

Resources

Section 504 of the Rehabilitation Act, 29 U.S.C. § 794

<https://www.law.cornell.edu/uscode/text/29/794>

Americans with Disabilities Act (ADA) Titles II & III, 42 U.S.C §§ 12132, 12182

Title II <https://www.law.cornell.edu/uscode/text/42/chapter-126/subchapter-II>

Title III <https://www.law.cornell.edu/uscode/text/42/chapter-126/subchapter-III>

Affordable Care Act Section 1557, 42 U.S.C. §18116
<https://www.law.cornell.edu/uscode/text/42/18116>

Guidance on Improving Access to Telehealth - U.S. Department of Health & Human Services
<https://telehealth.hhs.gov/providers/health-equity-in-telehealth/improving-access-to-telehealth/#telehealth-for-people-with-disabilities>

Guidance on Nondiscrimination in Telehealth - U.S. Departments of Justice and Health and Human Services
<https://www.hhs.gov/civil-rights/for-individuals/disability/guidance-on-nondiscrimination-in-telehealth/index.html>

Effective Communication - U.S. Department of Justice
<https://www.ada.gov/resources/effective-communication/>

Health Care and the Americans with Disabilities Act - ADA National Network /Pacific ADA Center
<https://adata.org/factsheet/health-care-and-ada>

National Consortium of Telehealth Resource Centers
<https://telehealthresourcecenter.org>

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