

# Telehealth Policy Update

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# What is ATA & ATA Action?

The **American Telemedicine Association** represents over 400 organizations – including leading healthcare delivery systems, academic institutions, technology solution providers and payers – all committed to the vision that people should access safe, effective and appropriate care where and when they need it.

**ATA Action** is the ATA's affiliated trade organization advocacy and lobbying arm focused on advancing digital health legislation and regulations at the federal and state level.



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# Legislation vs. Regulation

## Legislation
(Congress)

Legislation makes telehealth legal

- **Medicare telehealth coverage authority** (e.g., removing geographic/originating site restrictions)
- **Funding authorizations** for broadband, digital equity, workforce, and innovation
- **Mandates for CMS or HHS** to study or expand virtual care

## Regulation
(Executive Branch Agencies)

Regulations make it workable

- **Coding & billing policies**
- **HIPAA/privacy enforcement discretion**
- **Medical device rules** (FDA)
- **Interoperability & information-blocking rules** (ONC)
- **Broadband and connectivity programs** (FCC)
- **Key regulatory levers:**
  - Fee Schedule (ex. PFS, OPPS)
  - Regulatory Guidance
  - Pilot Programs
  - Executive Orders


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# Latest Congressional Action: Extension of Key Medicare Telehealth Flexibilities

| Policy | Extension Length | Impact on Rural Health |
|---|---|---|
| Medicare telehealth flexibilities<br>Waiver geographic and originating site requirements<br>Audio only coverage<br>Expands eligible telehealth providers<br>Designate RHCs and FQHCs as distant site providers<br>Removal of in-person telemental health requirement<br>Extending use of face to face for recertification of hospice care | December 31, 2027 | Rural patients receive care in homes instead of traveling far distances, allows rural patients to call their doctor is broadband isn't strong enough for video visit, allows patients access to specialists |
| Acute Hospital Care at Home Program | September 30, 2030 | Extends hospital capacity, reduces avoidable transfers, support aging in place, lowers costs, better outcomes |
| In-Home Cardiopulmonary rehabilitation flexibilities | January 1, 2028 | Expands access to rehab services, reduces travel burden improves outcomes for high risk rural patients |
| Inclusion of virtual only providers in Medicare Diabetes Prevention Program (MDPP) | December 31, 2029 | Expands access to diabetes prevention services, provides more provider options |


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# CMS Physician Fee Schedule: Expansions of Telehealth for Rural Health Providers

- Permanent **Direct Supervision** for all services
- Continue to **allow teaching physicians to have a virtual presence in all teaching settings**, only in clinical instances when the service is (a 3-way telehealth visit, with the teaching physician, resident, and patient in different locations).
- Expansion of **remote patient monitoring and remote therapeutics codes** to include 2-15 days of monitoring over 30- day period.
- Permanence of all **Medicare telehealth codes** on Medicare telehealth list
- Removal of **telehealth frequency limitations** for subsequent inpatient visits, subsequent nursing facility visits, and critical care consultations
- Permanently **allow providers who render telehealth services to use affiliated practice address** rather than their home address on Medicare billing and enrollment forms


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# What is the Ryan Haight Act?

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 requires a practitioner to conduct at least one in-person medical evaluation of the patient before prescribing a controlled substance by means of the "Internet" (a broadly-defined term that includes telemedicine). The Act contains seven exceptions when a provider doesn't have to examine the patient in-person first including:

1.) treatment in a hospital or clinic

2) treatment in the physical presence of a DEA-registered practitioner

3) treatment by Indian Health Service or Tribal practitioners

4) treatment during a public health emergency as declared by the Secretary of Health and Human Services

5) treatment by a practitioner who has obtained a "special registration"

6) treatment by Department of Veterans Affairs practitioners during a medical emergency

7) other circumstances specified by regulation. *See* 21 C.F.R. § 1300.04(i)(1)-(7).

# Updates on Remote Prescribing of Controlled Substances

**2008 – Ryan Haight Act Implemented**

In-person requirement for the remote prescription of controlled substances created

**2020 – In-Person Requirement Waived**

Administration waived in person requirement due to COVID-19

**2020- 2026** – Waiver Repeatedly Extended

DEA extended the flexibilities multiple times due to strong evidence of safety, access, and rural need

**December 31, 2026**

Current expiration date, unless federal action is taken

*ATA Action is advocating for the implementation of a permanent and feasible special registration process. This is an important flexibility that allows patients across the country to receive critical prescriptions where and when they need it.*



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# What is the CMMI ACCESS Model?

- 10-year national model (July 5, 2026 – June 30, 2036) testing a new payment approach for chronic conditions in Original Medicare.
- Shifts from fee-for-service to Outcome-Aligned Payments (OAPs) — recurring payments tied to measurable clinical improvement.
- 50% paid prospectively; 50% performance-based and tied to outcome thresholds.
- Focus areas: Cardio-Kidney-Metabolic (early & advanced), Musculoskeletal pain, Behavioral Health.
- Requires strong care coordination, data reporting, and HIPAA/FDA compliance.
- Application deadline for first cohort (July 5, 2026 start): April 1, 2026.

ATA Action submitted a letter to CMS at the end of January with questions and recommendations to garner clarity and ensure success of program.

# CMMI ACCESS Model Payment Rates

Table 1: Annual Payment Allowed Amounts by Track

| Clinical Track | Initial Period | Follow-On Period |
|---|---|---|
| Early Cardio-Kidney-Metabolic (eCKM) | $360 | $180 |
| Cardio-Kidney-Metabolic (CKM) | $420 | $210 |
| Musculoskeletal (MSK) | $180 | N/A - No Follow-On Period |
| Behavioral Health (BH) | $180 | $90 |

Annual payments are low: $180–$420 per patient per year, with 50% withheld until outcomes are met.

Payments are too small to support staff-heavy models (e.g., traditional RPM/CCM).

Clear signal: CMS wants software-first, automated, scalable care models.

# What is FDA TEMPO Program?

FDA's new pilot program aimed at accelerating access to certain digital health technologies used in chronic disease care.

TEMPO aligns with the ACCESS model, allowing companies participating in ACCESS to seek temporary enforcement discretion while collecting real world data to support future FDA authorization.

- Device makers can submit a **statement of interest "beginning January 2, 2026**." Follow-up information requests are anticipated by **March 2, 2026**.
- Up to **10 manufacturers will be selected per clinical use area**, across four broad categories aligning with ACCESS.
- Allows request for FDA **enforcement discretion,** meaning the agency may temporarily waive requirements such as premarket authorization or investigational device restrictions while the device is used in real-world settings under ACCESS.
- In exchange, manufacturers must collect and share **real-world performance data** (real-world data or "RWD") to generate real-world evidence ("RWE") about safety, effectiveness, and patient outcomes which can inform later full marketing authorization submissions.


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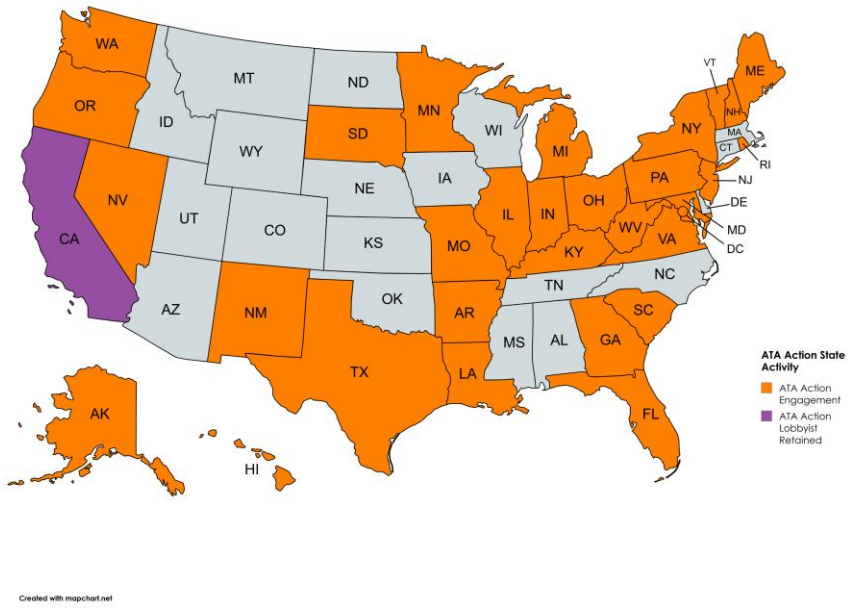
# Emerging Federal Policy: AI & Wearables:

- **Presidential Executive Order on AI**
  - The 2025 Executive Order accelerates U.S. AI innovation by reducing regulatory barriers and proposing federal preemption to create a unified national framework.
- **Federal Regulatory Framework Released**
  - Agencies have outlined a coordinated approach to AI oversight, including calls for federal preemption to avoid a patchwork of state-by-state rules that could hinder nationwide digital health adoption.
- **CMS Focus on Wearables and Remote Data**
  - CMS leadership has publicly emphasized the importance of wearables in chronic disease management and population health, signaling interest in broader integration of wearable-generated data into Medicare programs.
- **Expanding Use Cases in Care Delivery**
  - Wearables aren't just fitness trackers anymore. Federal agencies are increasingly treating them as clinical tools that can support:
    - Remote monitoring (e.g., continuous heart rate, oxygen saturation, arrhythmia detection)
    - Home-based care (e.g., monitoring patients in Hospital-at-Home programs)
    - Early detection of cardiovascular and metabolic issues (e.g., irregular heart rhythms, sleep apnea risk, glucose trends)

**Rural Health Relevance**: AI-enabled tools and wearables can extend clinical reach, support early intervention, and help overcome workforce shortages in rural communities.


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# ATA Action State Engagement and Achievements




**So far in 2026 ATA Action has engaged in more than 30 states on approximately 40 unique bills and regulations.**

## Key Achievements and Victories:

- Conducted our first state legislative hill day, meeting with more than a dozen California legislative offices.
- Secured critical improvements to Texas Board of Nursing telehealth regulations.
- Led successful efforts to ensure that Michigan did not exit the Interstate Medical Licensure Compact (IMLC).
- Supported efforts to expand access to telehealth care and break down cross-state licensure barriers to care.
- Established ATA Action as a leading voice on the development of policy regarding the use of AI in healthcare, pushing back on proposals across the country that would disrupt patient care
- Secured significant improvements to Corporate Practice of Medicine and Private Investment in Healthcare legislation in Vermont while defeating negative legislation in Washington.


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# State Policy Landscape

Continued Engagement in Key Areas:

- Cross State Licensure Flexibility
- Public and Private Insurance Coverage of Telehealth
- Modality Neutrality
- Prescription of Controlled Substances
- Remote Patient Monitoring

Expanded Engagement in Emerging Policy Issues:

- Health Data Privacy
- Private Investment in Healthcare and the Corporate Practice of Medicine
- The use of Artificial Intelligence in Healthcare



# QUESTIONS??

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