FALL FORECAST: UPCOMING TELEHEALTH CONTROLLED SUBSTANCE RULE

This Week (September 15, 2023)**:** Drug Enforcement Administration ("DEA") officials have been holding pre-regulatory listening sessions with stakeholders to discuss a new special provider registration requirement for practitioners who are prescribing controlled substances through telehealth without first establishing a provider-patient relationship.

Why it Matters: The special registration is mandated by the Ryan Haight Act, but the DEA has been hesitant to impose the requirement. Notably, the DEA agreed with stakeholders that the March proposed rules were too restrictive, particularly in relation to mental health treatment, substance abuse treatment and pain management. As proposed in March, among other restrictions and related requirements, the regulation would limit the initial prescription of controlled substances used to treat psychiatric diseases, hormonal issues and other conditions via telemedicine to a 30-day supply and require an in-person evaluation for any additional prescriptions.

What's Next: The DEA is currently formulating how the special registration can be crafted. The DEA will open an additional comment period for the regulation later this fall before any telemedicine regulations are finalized. Whether a new proposed rule will extend the current telemedicine flexibilities past their November 11 expiration date remains unclear. Accordingly, it will be important for health care providers to be aware of these proposed rules, once published, as well as any modifications made to the current flexibilities.

For more information regarding the DEA's proposed rules, or other considerations related to telehealth prescriptions, please contact:

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