

# **Draft Implementing Rules of China's Human Genetic Resources Regulations as Applied to Foreign Persons**



The Administrative Regulations of the People's Republic of China on Human Genetic Resources (the "Regulations"), promulgated by China's State Council, have been in effect for almost three years. As the administrative department under the State Council with the primary responsibility for the administration and enforcement of the Regulations, China's Ministry of Science and Technology ("MOST") is also responsible for promulgating rules implementing the Regulations. On March 21, 2022, MOST published Draft Implementing Rules for the Regulations (the "Draft Rules") for public comment, which must be submitted to MOST by April 21, 2022.

This article is not a comprehensive review of the Draft Rules, but rather focuses on those provisions of the Draft Rules that are specifically related to "foreign organizations and individuals and the entities formed or actually controlled by them" under the Regulations (collectively, "Foreign Persons"), with the exception of the first part on the definition of "human genetic resources information."

Read the [client alert](#).

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## **President Biden Signs Into Law Medicare Telehealth Coverage Extension Post-Public Health Emergency**



On March 15, 2022, President Biden signed into law the \$1.5 trillion Consolidated Appropriations Act of 2022 (the "Omnibus Bill"). Included in the 2,700+ page Omnibus Bill is an extension of Medicare coverage of professional consultations, office visits, and

office psychiatry services conducted via telemedicine for 151 days after the end of the designated public health emergency (“PHE”).<sup>[1]</sup>

Prior to the PHE, in order to qualify for Medicare coverage:

- A patient receiving telehealth services had to be physically located at a physician’s office, hospital, or other healthcare facility that is located in a geographical health professional shortage area (HPSA) that met certain requirements, a county that was not included in a Metropolitan Statistical Area as of December 31st of the preceding year, or an entity participating in a Federal telemedicine demonstration project in order for telehealth services to be covered by Medicare.
- Further, the patient had to obtain telehealth services furnished through technology that enabled real-time audio visual communication, with limited recent exceptions, as discussed in our Client Alert titled [\*\*CMS Continues to Modernize by Expanding Reimbursement for Digital Health Services\*\*](#).

Administrative and legislative changes made in March 2020 as part of the government’s response to the COVID-19 pandemic waived these location and technology requirements for the duration of the PHE. These waivers of location and technology requirements are now extended further under the Omnibus Bill.

Additionally, the Omnibus Bill expands the types of practitioners eligible to provide telehealth services to patients. Prior to the PHE, Medicare covered telehealth services only if offered by physicians, physician assistants, nurse practitioners, clinical nurse specialists, nurse-midwives, clinical psychologists, clinical social workers, registered dietitians or certified registered nurse anesthetists. Under the Omnibus Bill, qualifying practitioners now include occupational therapists, physical therapists, speech-language pathologists and audiologists. Other changes include delaying in-person requirements for the provision of mental health services and extending coverage of telehealth services rendered by federally qualified health centers to provide telehealth services for the same 151 day post-PHE period.

While these changes are welcomed by many in the healthcare industry as a necessary resource and buffer for telehealth patients and providers, it remains to be seen whether additional coverage flexibilities, beyond certain limited opioid treatment program expansion and counseling therapy telehealth coverage expansion under [\*\*CY 2022 Medicare Physician Fee Schedule Final Rule\*\*](#), established during the PHE will become permanent moving forward. The Omnibus Bill requires the Medicare Payment Advisory Commission to provide Congress with a report by June 15, 2023 on the expansion of telehealth services as a result of the PHE. The Department of Health and Human Services, Office of Inspector General is similarly required to provide Congress with a report by June 15, 2023 on program integrity risks associated with Medicare telehealth services. In addition, the Department of Health and Human Services must post quarterly data, starting July 1, 2022, on Medicare claims for telemedicine services.

We will continue to monitor these and other legislative and regulatory changes impacting telehealth industry stakeholders.

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<sup>[1]</sup> The PHE determination was recently renewed by Xavier Becerra, Secretary of the U.S. Department of Health and Human Services on January 16, 2022. A public health emergency declaration expires 90 days after the declaration or renewal or renewal is made, unless terminated prior. It is unclear whether the latest PHE declaration will be renewed or not or whether the PHE declaration will be terminated prior to the 90-day deadline.