Medicare and Medicaid Telehealth Waivers in Response to COVID-19 Pandemic

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- Information in this presentation is current as of March 31, 2020; however, Federal and State laws, rules, and guidance are likely to continue to change during the COVID-19 pandemic.

Agenda

- Medicare
  - Section 1135(b)(8) Waiver
  - CMS Guidance
  - Implications for Certain Healthcare Facilities
  - Telehealth Billing Requirements for Medicare
  - Virtual Check-ins, E-visits & Remote Patient Monitoring
- Medicare Advantage & Telehealth
- ICD-10 Coding
- Medicaid & Telehealth Expansion
  - State Expansion Examples
- Q&A

Coronavirus Preparedness and Response Supplemental Appropriations Act

- H.R. 6074 was signed into law by the President on March 6, 2020. The bill provides $8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak.
- Highlights
  - Granted the Secretary of HHS discretion to waive statutory rural and site of service coverage restrictions on services provided via telehealth.
  - Designated a majority of funds to HHS for research and development of vaccines
  - Funding for the Small Business Administration (SBA) disaster loans program

Section 1135(b)(8) Waiver

- The waiver, authorized under section 1135(b)(8) of the Social Security Act, is retroactive to March 6, 2020.
- Provides for Medicare coverage for telehealth services regardless of where the beneficiary is located.
- Waives the "originating site" requirement, meaning services can be provided to beneficiaries in any healthcare facility, as well as in their home.
- Is not limited to telehealth services related to COVID-19 and applies to any medically necessary covered service.
- Allows for health care providers to use certain audio-visual chat applications to provide telehealth services through HIPAA waivers.

Distant Site

- Where the physician or practitioner is located at the time the service is provided, via a telecommunications system.
- This was not changed by the first waiver.
- Eligible providers remains the same:
  - Distant site practitioners:
  - Physicians
  - Nurse practitioners (NPs)
  - Physician assistants (PAs)
  - Nurse-midwives
  - Clinical nurse specialists (CNSs)
  - Certified registered nurse anesthetists
  - Clinical psychologists (CPs)
  - Clinical social workers (CSWs)
  - Registered dietitians or nutrition professionals

FQHCs & RHCs

- Medicare restrictions are expected to be lifted in third stimulus package – "Coronavirus Aid, Relief, & Economic Security Act"(the CARES Act) which was approved by the Senate.
  - Broadens the definition of "distant site" to include FQHCs and RHCs that provide telehealth services to an eligible individual.
  - Telehealth services will be paid based on national average of the physician fee schedule rate.
  - Costs associated with the provision of telehealth services during the public health emergency will *not* be used to determine payment under the FQHC/RHC all-inclusive rates.

CMS Guidance

- Prior established relationship
  - The first waiver includes a statement that the provider must have a prior existing relationship within 3 years.
  - *However*, the CARES Act eliminated the requirement that providers or others in their group must have treated the patient in the past 3 years to provide them with a telehealth service.
- Telehealth Services
  - While telehealth services do not have to be related to COVID-19, must still be on list of services payable under the Medicare Physician Fee Schedule.
  - List of eligible codes can be found on the CMS website.

CMS Guidance

- Telehealth Modalities
  - Telehealth services must still be provided via an interactive audio and video telecommunications and the patient must be present and participating in the telehealth visit.

- Telehealth Communications Equipment
  - OCR will not impose certain penalties on HIPAA covered health care providers using telehealth in ways that do not comply with HIPAA rules.
  - Acceptable non-public video applications include: Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype.

TYPE OF SERVICE	WHAT IS THE SERVICE?	HCPCS/CPT CODE	Patient Relationship with Provider
MEDICARE TELEHEALTH VISITS	A visit with a provider that uses telecommunication systems between a provider and a patient.	Common telehealth services include: • 99201-99215 (Office or other outpatient visits) • G0425-G0427 (Telehealth consultations, emergency department or initial inpatient) • G0406-G0408 (Follow-up inpatient telehealth consultations furnished to beneficiaries in hospitals or SNFs) For a complete list: https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes	For new* or established patients. *To the extent the 1135 waiver requires an established relationship, HHS will not conduct audits to ensure that such a prior relationship existed for claims submitted during this public health emergency
VIRTUAL CHECK-IN	A brief (5-10 minutes) check in with your practitioner via telephone or other telecommunications device to decide whether an office visit or other service is needed. A remote evaluation of recorded video and/or images submitted by an established patient.	• HCPCS code G2012 • HCPCS code G2010	For established patients.
E-VISITS	A communication between a patient and their provider through an online patient portal.	• 99431 • 99422 • 99423 • G2061 • G2062 • G2063	For established patients.

Source: CMS, General Provider Telehealth & Telemedicine Tool Kit, available at https://www.cms.gov/files/document/general-telemedicine-toolkit.pdf.

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Beneficiary Cost-Sharing Obligation

- HHS-OIG released a policy statement that includes notice that the OIG will *not* impose sanctions on physicians for waiving amounts paid by federal healthcare programs.
- Conditions:
  1. The cost-sharing obligation must be related to telehealth services furnished consistent with the then-applicable coverage and payments rules; and
  2. The telehealth services are furnished during the time period subject to the COVID-19 public health emergency declaration.
  3. The OIG has clarified that the policy applies to telehealth and technology based communication services such as virtual check-ins.

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Prescribing via Telehealth

- DEA-registered practitioners may issue prescriptions for controlled substances to patients with whom they have not conducted an in-person visit.

- The following conditions must be met:
  - The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
  - The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and
  - The practitioner is acting in accordance with applicable Federal and State law.

Telehealth Billing Requirements

- "Originating site" facility fee claims must include HCPCS code "Q3014."
  - Current originating site fee for CY 2020: $26.65
- "Distant Site" (i.e. where clinician is located) bills same CPT/HCPCS code they would bill if service provided in person (e.g., E/M codes)

- "02" Place of Service (POS) code must be used for the "distant site" practitioner.

- Medicare pays the same amount for telehealth services as it would if the service were furnished in person.
  - Use the designated CPT code that describes the service.
  - If there is a site of service payment differential, Medicare will use the lower facility payment rate just like they would do if physician provided service in a hospital
  - For E&M, this could be upwards of 30% lower

Modifiers

- CMS is not requiring additional or different modifiers during this public health emergency.

- Follow current modifiers:
  - "GQ" modifier: Telemedicine service provided via asynchronous telecommunications systems (Hawaii and Alaska only).
  - "G0" modifier: Telehealth service for diagnosis, evaluation, or treatment of symptoms of an acute stroke.
  - "GT" modifier: CAH distant side providers billing under CAH Optional Method II

- Commercial payers may require modifier 95

Hospice and Home Health

- Third stimulus package – "Coronavirus Aid, Relief, & Economic Security Act" would
  - allow "face-to-face" visits required for recertification of hospice benefits to take place via telehealth.
  - Allow NP, CNS, or PA to certify and recertify need for home health care
- Home health certification and recertification by clinician can be via telehealth
- Home visits cannot be done via telehealth

Home Dialysis

- "Coronavirus Aid, Relief, & Economic Security Act" as passed by Senate would give Secretary authority to waive face-to-face visit requirement for home dialysis.

Virtual Check-ins

- HCPCS Code G2012
- Brief patient-initiated communication with an *established* patient (can be via telephone)
  - Can last between 5-10 minutes
  - Not limited by patient locations
  - Physician/Advance Practice Nurse (APRN) /Physician Assistant (PA)
  - Cannot be within 7 days of E/M for same problem
  - Cannot lead to E/M or procedure within 24 hours
- No changes made in response to COVID-19 public health emergency.

E-Visits

- Patient-initiated communication between *established* patient and practitioner using online patient portals.
  - No geographic or location restrictions
  - Can only be bill once per 7 days
  - Can range from 5 to 21 or more minutes
- No changes
- CPT Codes 99421-99423 & HCPCS codes G2061-G2063.
- Clinicians who may not independently bill for E/M visits can provide and bill for e-visits.
  - CMS Examples: physical therapists, occupational therapists, speech language pathologists, and clinical psychologists can bill G2061-G2063 to Medicare

Remote Patient Monitoring (RPM)

- No changes made in response to COVID-19 public health emergency.
- Not considered "telehealth" services and not subject to Medicare's telehealth restrictions.
- Used as follows:
  - Must be for monitoring physiologic parameters
  - Patient can be in their home
  - Monitoring can last several weeks or months
  - Must be for treatment management
- Use Codes 99453-99458

- CMS has previously provided informal guidance that IDTFs that provide technology and education should be able to bill CPT Codes 99453 (education) and 99454 (monitoring). However, we are not aware that any MACs have allowed IDTFs to bill these codes.

Who Can Perform RPM?

- Nurses/other clinical staff can provide under general supervision (CPT Codes 99453,99457, 99458)
- Medicare will pay separately for set-up and education (CPT Code 99453)
- Separate monthly payment to cover costs of technology such as daily recordings, transmissions, alerts – every 30 days (CPT Code 99454)

Medicare Advantage and Telehealth Waiver

- Medicare Advantage Plans are required to cover the same services as regular Medicare Parts A and B (42 CFR Section 422.201)
- Because Medicare Part B is now covering telehealth in non-rural areas and when patient is in the home, this should mean that Medicare Advantage plans must provide the same coverage.
- Previously, MA plans had the option of providing expanded telehealth benefits as part of their basic benefits.

ICD-10 Coding for Covid-19

- CDC Guidance States:
  - For cases where there is a concern about a possible exposure to COVID-19, but this is ruled out after evaluation, it would be appropriate to assign the code Z03.818, Encounter for observation for suspected exposure to other biological agents ruled out.
  - For cases where there is an actual exposure to someone who is confirmed to have COVID-19, it would be appropriate to assign the code Z20.828, Contact with and (suspected) exposure to other viral communicable diseases.
  - Washington Health Care Authority Billing for COVID-19 Evaluation & Testing.

New CPT Code for COVID-19 Testing

- New CPT Code 87635 approved for immediate use for COVID-19 laboratory testing
  - *Infectious agent detection by nucleic acid (DNA or RNA); severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Cornonavirus disease [COVID-19]), amplified probe technique*

Medicaid and Telehealth Expansion - CMS

- States already have considerable flexibility to cover telehealth under their state plans
- No federal approval is needed to reimburse telehealth visits in same manner as face-to-face services
- Other changes may require waivers but CMS will streamline approval process.
- As of March 24, 2020 thirteen states had been granted section 1135 waivers
- CMS COVID-19 Medicaid Waiver Checklists

State Activities

- States are taking steps to expand telehealth services to Medicaid beneficiaries with and without federal waivers.

- Center for Connected Health Policy is tracking this around the country. Check for action by your state.

Examples of What States are Doing

- Coverage for telephone calls
- Coverage for smart phone live chat apps
- Expanding Medicaid coverage of telehealth visits in FQHCs, RHCs, and Indian Health Service
- Allowing home to serve as originating site for telehealth services
- Expanding coverage of services that can be furnished via telehealth without prior in-person visit
- Waiving cost-sharing requirements

Examples of What States are Doing (con't)

- Allowing out-of-state practitioners to provide services to residents via telehealth
- Allowing prescriptions for Schedule II-IV controlled substances via telehealth
- Adding new services like physical and occupational therapy to covered telehealth services
- Expanding behavioral health services and substance abuse counselling
- Allowing telehealth visits for new patients

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Questions?

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