Additional Expansion of Medicare Telehealth Coverage During COVID-19 Pandemic

Medicare Coverage for Telehealth, Virtual Services, and Telephone E/M Services

April 3, 2020

Publish Date:: 04-03-20

Disclaimer: To the best of our knowledge, these answers were correct at the time of publication. Given the fluid situation, and with rapidly changing new guidance issued daily, be aware that these answers may no longer apply. Please visit our COVID-19 hub frequently for the latest information, as we are working diligently to put forth the most relevant helpful guidance as it becomes available.

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Agenda

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1. Telehealth Services

Before the Waiver

Section 1834(m)

- **Geographic** – Patient must reside in rural area
- **Location** – Patient must be physically present at healthcare facility when service is provided (facility fee)
- **Service** – Coverage limited to CMS' list of approved telehealth services (CPT and HCPCS codes)
- **Technology** – Must utilize telecommunications technology with audio ***and*** video capabilities that permits real-time interactive communication

With Some Exceptions

- **Telestroke**
  - Effective 01/01/2019, geographic and location requirements do not apply to services furnished to diagnose, evaluate, or treat symptoms of acute stroke
- **Substance Use Disorder**
  - Effective 07/01/2019, geographic and location requirements do not apply to services relating to SUD and co-occurring behavioral health conditions
- **ESRD**
  - Effective 01/01/2019, geographic and location requirements do not apply to ESRD services relating to home dialysis
- **Medicare Advantage**
  - For 2020 plan year, MA plan may eliminate geographic and location requirements
- **Medicare Shared Savings Program**
  - Waiver of geographic and location requirements for ACO participants in risk models
- **CMMI Initiatives**

Section 1135 Waiver

- Coronavirus Preparedness and Response Supplemental Appropriations Act (March 6, 2020)
- Expanded Secretary's authority to waive telehealth geographic and location restrictions
  - Limited to public health emergency (PHE) due to COVID-19 pandemic
  - No authority to waive services and technology restrictions

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Key Documents

- CMS Waiver Implementation
  - CMS March 17 Telehealth Waiver Press Release, Fact Sheet, and FAQ
  - CMS March 18 MLN Matters Special Edition Article
  - CMS COVID-19 Medicare Provider Enrollment Relief FAQ
  - CMS Telehealth and Telemedicine Tool Kits
  - CMS CY20 Covered Telehealth Services
- Other Agencies
  - OIG Policy Statement on Waiving Telehealth Cost-Sharing During COVID-19 Outbreak
  - OCR Notification of Enforcement Discretion (HIPAA)
  - DEA Diversion Control Division – Telemedicine
- CARES Act
- CMS March 31 Interim Final Rule (IFR)

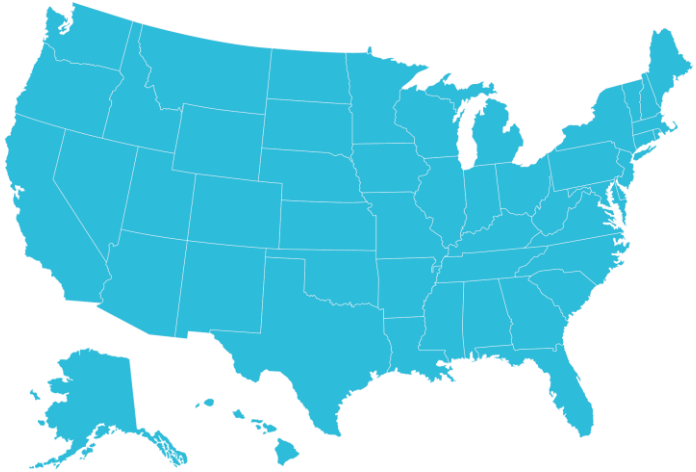
Links to documents at **https://www.pyapc.com/covid-19-hub/**

Eligible Providers

- Limited to:
  - ✓ Physicians
  - ✓ Non-physician practitioners
  - ✓ Clinical psychologists, licensed clinical social workers
  - ✓ Registered dieticians, nutrition professionals
- If provider can bill on MPFS for face-to-face service under own NPI, can bill for same service delivered by telehealth
- Incident-to billing
- CARES Act directs CMS to develop telehealth payments for RHCs and FQHCs during PHE for COVID-19 pandemic

Location

- Patient can be anywhere
  - No expansion of originating site fee
- Provider can be anywhere in the U.S.
  - Update: provider furnishing services from home not required to update Medicare enrollment with home location
    - List home address on claim to identify where services rendered
    - Discrepancy between practice location in Medicare enrollment (clinic) and location identified on claim (home) will not impact claims payment



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Licensure – Medicare Rules

- Pre-waiver
  - Provider must be licensed in state in which patient located.
- Section 1135 blanket waiver
  - "…the physician or non-physician practitioner is furnishing services – whether in person or via telehealth – in a State in which the emergency is occurring in order to contribute to relief efforts in his or her professional capacity."

Licensure – State Law

- Most states require licensure to provide telehealth to treat individuals in that state
- Interstate Medical Licensure Compact (29 states)
- COVID-19 state law waivers
  - Center for Connected Health Policy
    - https://www.cchpca.org/resources/covid-19-related-state-actions
  - Terms of waiver vary (e.g., Kansas requires written notice to State Board of Healing Arts; only applies to physicians)

Covered Services

- ✓ Services for ***new*** and established patients
- ✓ Services ***do not*** need to relate to COVID-19
- ✓ Services limited to CY20 Covered Telehealth Services list + IFR expansion
- ✓ Therapy services added, but only billable by eligible providers (not therapists, but see virtual services)

Service Category	CPT Codes
Emergency Department Visits	99281 – 99285
Initial & Subsequent Observation & Observation Discharge Day Management	99217 – 99220 99224 – 99226 99234 – 99236
Initial Hospital Care & Hospital Discharge Day Management	99221 – 99223 99238 – 99239
Initial Nursing Facility Visit & Nursing Facility Discharge Day Management	99304 – 99306 99315 – 99316
Critical Care Services	99291 – 99292
Domiciliary, Rest Home or Custodial Care Services	99327 – 99328 99334 – 99337
Home Visits	99341 – 99345 99347– 99350
Inpatient Neonatal & Pediatric Critical Care	99468 – 99469 99471 – 99473 99475 – 99476
Initial & Continuing Intensive Care Services	99477 – 99480
Care Planning for Patients with Cognitive Impairment	99483
Group Psychotherapy	90853
Psychological & Neuropsychological Testing	96130 – 96133 96136 – 96139
Therapy Services *NOTE: As CMS notes in the IFR, Section 1834(m) does not authorize physical therapists, occupational therapists, or speech-language pathologists to bill for services furnished via telehealth. Thus, these services are reimbursable only if furnished by a physician or non-physician practitioner*	97161 – 97168 97110 97112 97116 97535 97750 97755 97760 – 97761 92521 – 92524 92507
Radiation Treatment Management Services	77427

Home Visit vs. Office Visit

- "CPT codes describing E/M services reflect an assumption that the nature of the work involved in [E/M] visits varies, in part, based on the setting of care and the patient's status. Consequently, there are separate sets of E/M codes for different settings of care...."
- "We expect [providers] to use the E/M code that best describes the nature of the care they are providing, regardless of the physical location or status of the patient."
- "Under ordinary circumstances, we would expect the kind of E/M code reported to generally align with the physical location or status of the patient."
- "In the context of the PHE, we recognize that the relationship among the setting of care, patient status, and kind of E/M code reported may depend on the needs of local communities and the capacity of local health care institutions."

Telehealth Office/Outpatient E/M Visits

- May base level selection on medical decision-making or time
  - In these cases, the practitioner does not need to document history and/or physical exam
  - Similar to rules for all office/outpatient E/M visits beginning in 2021
- If using time, count the typical time/intraservice time in minutes associated with service on day of encounter and select level based on following:

CPT Code	Total Minutes
99201	10
99202	15
99203	20
99204	30
99205	45
99211	5
99212	10
99213	15
99214	25
99215	35

- Total minutes is not relevant if a practitioner bases his or her level selection on medical decision making.

Controlled Substances

- Controlled Substances Act prohibits practitioner from prescribing controlled substance absent in-person medical evaluation
- DEA waived this requirement during COVID-19 public health emergency (PHE), provided:
  - Prescription is issued for legitimate purpose
  - Practitioner communicates with patient via telehealth using audio-visual, real-time, two-way interactive communication system
  - Act in accordance with applicable federal and state laws
    - May require waiver of state law

Technology

- Real-time, interactive audio-visual communication technology
  - Audio only does not qualify for telehealth (options below)
- OCR Notification of Enforcement Discretion
  - Will not impose penalties if, in good faith, use any non-public remote communication product
    - **Yes:** Apple Face-Time, Facebook Messenger video chat, Google Hangouts Video, Skype – enable all available encryption and privacy modes
    - **No:** Facebook Live, Twitch, TikTok
  - Encourage providers to notify patients applications potentially introduce privacy risks

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Billing and Payment

- **Update:** Telehealth services paid at non-facility rates to compensate practices for telehealth-associated costs
  - POS = location "that would have been reported had the service been furnished in person…if not for the [PHE]"
  - Reversal of earlier direction to bill POS 02
  - Include -95 modifier; do not include CR (catastrophe/disaster related) modifier
  - If POS = HOPD, bill facility fee (e.g., APC 5012)?
- Submit claim to MAC serving provider's location (regardless of beneficiary location)
- OIG permitting waiver of beneficiary cost-sharing

Compliance Considerations

- If non-physician practitioner provides service, bill under NPP's provider number
- Incident-to billing
- Eliminated telehealth frequency limits for:
  - Subsequent inpatient visits
  - Subsequent nursing facility visits
  - Critical care consultation services
- Permit telehealth in place of required face-to-face visits
  - Required "hands-on" visit for ESRD monthly capitated payments (clinical examination of vascular access site)
  - Required face-to-face visits with inpatient rehab facility patients
  - Required face-to-face visits for hospice re-certification
- Permit opioid treatment program telehealth services to be audio-only

2. Virtual Services

What's a Virtual Service?

CMS interprets 1834(m) as applying only to services typically provided face-to-face

Now creating new reimbursement for technology-based provider-patient interactions

Virtual Check-Ins (Telephonic)

- New reimbursement effective 01/01/2019
- HCPCS G2012 (G0071 for RHCs & FQHCs)
  - Brief communication technology-based service by physician or other qualified healthcare professional provided to established patient, not originating from related E/M service provided within previous 7 days nor leading to E/M service or procedure within the next 24 hours or soonest available appointment; 5 – 10 minutes of medical discussion.
  - MPFS rate = ~$13.00
- During the PHE:
  - New and established patients
  - Permitted waiver of beneficiary cost-sharing
  - Documented consent still required, **but** (1) can secure at time service provided, and (2) may be obtained and documented by auxiliary staff under general supervision

eVisits

- New reimbursement effective 01/01/2020
- Patient-initiated communication via HIPAA-compliant platform (patient portal, secure messaging)
- Same PHE rules as virtual check-ins
- For physicians and non-physicians:

CPT Code	Cumulative Time (Over 7-Day Period	Non-Facility	Facility
CPT 99421	5 – 10 minutes	$15.52	$13.35
CPT 99422	11 – 20 minutes	$31.04	$27.43
CPT 99423	21+ minutes	$50.16	$43.67

- For non-physician healthcare professionals:

HCPCS Code	Cumulative Time (Over 7-Day Period	Facility and Non-Facility
G2061	5 – 10 minutes	$12.27
G2062	11 – 20 minutes	$21.65
G2063	21+ minutes	$33.92

  - May be billed "as [LSCSW] services, clinical psychologist services, physical therapist services, occupational therapist services, or speech language pathologist services, so practitioners that report services in those benefit categories could also report these online assessment and management services."

Remote Patient Monitoring

Frequency	CPT Code	Description	Medicare Payment (National Payment Rate) Non-Facility	Facility	APC	Patient Eligibility	Clinical Staff Supervision	Time or Duration	Other Requirements
Remote Monitoring One-Time (per episode)	**99453**	Device setup	$18.77	$18.77	~$115	Acute or Chronic Condition + medical necessity (Physician Order)	None (practice expense only)	Min. 16 days of data collection per calendar month	
Remote Monitoring Recurring	**99454**	Data transmission	$62.44	$62.44	~$37	Acute or Chronic Condition + medical necessity (Physician Order)	None (practice expense only)	Min. 16 days of data collection per calendar month	-
	99457	Physician monitoring	$51.61	$32.84	-	Acute or Chronic Condition + medical necessity	General	1st 20 minutes/month data review & response	-Live, interactive communication with patient/caregiver; no time counted on same day as E/M
	99458	Physician monitoring	$42.22	$32.84		Acute or Chronic Condition + medical necessity	General	20 add'l minutes/month data review & response	Up to two units per month (total of 60 minutes)

Same PHE rules as virtual check-ins

3. Telephone E/M Services

New Medicare Reimbursement

CPT	Description	Non-Facility	Facility
99441	Telephone evaluation and management service by a **physician or other qualified health care professional who may report E/M services** provided to established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5 – 10 minutes of medical discussion	$14.44	$13.35
99442	Same, 11 – 20 minutes of medical discussion	$28.15	$26.71
99443	Same, 21 – 30 minutes of medical discussion	$41.14	$39.70
98966	Telephone assessment and management service provided by **qualified nonphysician health care professional** to an established patient, parent, or guardian not originating from a related assessment and management service provided within the previous 7 days nor leading to an assessment and management service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion	$14.44	$13.35
98967	Same, 11 – 20 minutes of medical discussion	$28.15	$26.71
98968	Same, 21 – 30 minutes of medical discussion	$41.14	$39.70

- Expanded to include new patients
- Guidance relating to 98966-98968 similar to eVisits

4. Other Payers

State Medicaid Programs

- Wide variation in Medicaid telehealth coverage prior to COVID-19 national emergency
  - Only 4% of Medicaid beneficiaries have used telehealth
  - Center for Connected Health Policy:
    - https://www.cchpca.org/telehealth-policy/current-state-laws-and-reimbursement-policies#
- Trump Administration encourages states to provide telehealth coverage
  - No federal approval required for state Medicaid program to reimburse telehealth services in same manner or at the same rate that program pays for face-to-face services
  - Otherwise, state must file a Disaster State Plan Amendment using recently-released template
  - Center for Connected Health Policy:
    - https://www.cchpca.org/resources/covid-19-related-state-actions

Commercial Payers

- 40 states + DC have telehealth parity laws
  - Most require coverage, but not equivalent reimbursement
  - ATA's 2019 State of the States Report: Coverage and Reimbursement
- No centralized repository of commercial payer telehealth coverage, growing use of third-party vendors
- State action requiring state-regulated plans to provide COVID-19 telehealth coverage (e.g., Massachusetts, Minnesota)
- Some plans voluntarily expanding emergency coverage

5. Questions?

Resources

- Prior webinar recordings, slides, transcripts, follow-up Q&As
- PYA thought leadership
- Links to important resources

www.pyapc.com/covid-19-hub/