On-Demand Webinar: "COVID-19 Waivers: What Providers Can and Can't Do"

Presenters: PYA Principal Martie Ross and Principal Kathy Reep

Original Webinar Broadcast: March 25, 2020 at 11am EDT.

Additional Questions & Answers:

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.

UPDATE 03-26-20: We had several questions regarding whether a provider could furnish services from his/her home. Today, CMS directly addressed this issue in an FAQ regarding provider enrollment. Here is a link to their FAQ.

Q: Can physicians bill Medicare if they provide telehealth from their personal residence? If so, what would be the appropriate POS code?
A: Yes. Use POS 02 for all telehealth claims, regardless of the location of the provider or the patient. For the address, list the location from which the provider normally provides face-to-face services (e.g., clinic).

Q: Is there any guidance available for hospitals with outpatient units such as Diabetes Education, Physical Medicine and Behavioral Health? Are facilities able to bill the virtual check ins?
A: Reimbursement for virtual check-ins, eVisits, and telehealth services only is available on the Medicare Physician Fee Schedule. The physicians, non-physician practitioners, clinical psychologists, social workers, and nutrition professionals working in these units would be able to bill for their professional services. There is no facility reimbursement for these services.

Q: If a hospital is setting up a mobile hospital, either off-campus or on-campus, is the provider required to submit an enrollment application identifying the alternate address, if there is one?
A: The National Uniform Billing Committee, with CMS as a voting member, recommended on 3/23 that providers were to use the main hospital address and NPI along with the DR condition code to bypass the location edit. Also, today, CMS announced that they were further delaying the activation of the edits - see https://www.CMS.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/SE19007.pdf.

Q: If a patient is screened in the ED and re-directed to another area of the provider, either inside the provider our outside the walls of the provider, may you use the ED level code 99281 - 99285 to bill for those services?
A: We are not aware of any specific CMS guidance on this issue.

Q: When it says the State must submit the waiver, who exactly submits the request on behalf of the State? Can a provider?

A: It is best for the state or the state hospital association to submit waivers that apply to all facilities in the state. If a waiver is needed for a unique arrangement, then it is appropriate for the individual hospital to make the request.

Q: Another suggestion for a waiver - waive requirement for quarterly credit balance report. Quarter ends on 03/31.
A: Good addition - thanks for bringing that up.
Q: So, is the individual waiver only for financial arrangements? Does that mean I could not submit a waiver as a provider for some of the topics Kathy Reep mentioned?
A: It is best for the state or the state hospital association to submit waivers that apply to all facilities in the state. If a waiver is needed for a unique arrangement, then it is appropriate for the individual hospital to make the request.

Q: When will the slides from Monday's session be distributed?
A: Thank you for your question! You should have received an email containing the slides. However, if you did not receive it. Here is the link: https://www.pyapc.com/insights/covid-19-telehealth-waiver-made-simple/

Q: Does the 3-day prior hospitalization waiver apply to hospital swing bed services?
A: This was raised by Dr Ronald Hirsch on 3/23 and he received clarification the same day from CMS. See https://www.racmonitor.com/breaking-swing-beds-now-eligible-for-use-in-three-day-inpatient-stay.

Q: Does the appeals process only apply to COVID-19 services?
A: No - the request would be to allow additional time to submit appeals as most hospital staff is consumed by non-routine activities at this time.

Q: Dr. Ronald Hirsch, speaking on RAC Monitor Mondays, is saying we should stop getting signatures on most forms and go straight to telephonic. Have you seen any confirmation on that?
A: I have not seen formal approval for that, but I agree with the recommendation.

Q: So, a provider cannot use non HIPAA video s/w (skype/facetime) for video visits [because capability not in place for EHR)?
A: The HHS Office of Civil Rights has stated it will not pursue enforcement action against any provider that uses a non-public remote communication product such as Apple Face-Time, Facebook Messenger video chat, Google Hangouts Video, Skype. OCR expects a provider who uses one of these products to enable all available encryption and privacy modes. The link to the relevant OCR document is available on the PYA COVID-19 hub.

Q: Additional question regarding HIPAA and provider video E/M visits, can patient waive confidential communication for the video visit?
A: As noted above, the HHS Office of Civil Rights has stated it will not pursue enforcement action in this context. OCR recommends, but does not require, a provide inform the patient of potential breaches of confidentiality with the use of non-public remote communication products.

Q: DR or CR?
A: Institutional providers use DR; professional claims use CR but will soon be allowed to also use DR.

Q: If a patient cannot use a portal or a smart phone or computer for true face to face (interactive video) telemedicine and the provider uses the phone and portal to access the med record to assess and treat, do we bill office visit codes 99213, 99214 etc or the 99421, 98422, 99423 codes? Thank you.
A: E/M codes can be billed as telehealth services only if real-time audio-visual communication is used. Presently, the only reimbursement option for telephone visits is Virtual Check-In, G2012 (or G0071 for RHCs and FQHCs)

Q: Will you do a webinar when CARES act given more guidance to FQHC?
A: Yes! We have a CARES Act webinar scheduled for **Monday, March 30th at 1pm EDT**. Please check our COVID-19 Hub for information that will be posted later today.

Q: How about waivers for retired or expired nurses, respiratory therapists, etc.? Can these types of workforce members be "called back" to provide disaster care?
A: The current 1135 waiver requires the practitioner to be licensed and in good standing in at least one state and to be presently enrolled in the Medicare program. Licensure is a state law issue – meaning it would require action by the state board of nursing to permit non-licensed nurses to reactive their licenses. Same for other professionals.

Q: Can you talk about the need for clear documentation in situations where physicians are providing emergency care outside of their scope or privileging or, if employed or contracted, outside of contractual obligations. What kind of documentation would be recommended to avoid Stark implications?
A: Generally speaking, one should document the specific circumstances which necessitated the physician's engagement in the provision of emergency care. As one would expect, matters regarding hospital privileges and Stark Law compliance are highly dependent on particular facts and circumstances.

Q: What is the place of service for telehealth when the patient is in home and provider in office?
A: CMS guidance indicates a provider may furnish telehealth services from other locations, and that the address listed on the claim should be the location at which the provider normally furnishes face-to-face services (e.g., clinic). However, some MACs are advising any location from which a provider delivers service to be an enrolled site. In that case, a provider should submit a temporary credentialing application (backdated to the beginning of the month), which should be approved in short order.

Q: the CMS says you can do an annual Medicare wellness with telehealth, checking blood pressure if required with a Medicare wellness visit, is the blood pressure requirement waived for these visits G0439, G0438
A: We are not aware of any specific CMS guidance on this issue.