akerman

Blog Post

CMS Issues Additional Waivers and Guidance on Telehealth

May 11, 2020

To ensure Medicare beneficiaries have access to necessary care without risking exposure to COVID-19, the Centers for Medicare & Medicaid Services (CMS) has further expanded telehealth services and relaxed certain requirements related to the same with the issuance of additional waivers (available here) and an interim final rule (IFR) available here.

Both the additional waivers and IFR are retroactive to March 1, 2020 and will remain in place through the COVID-19 pandemic. The recent waivers and further expansion of telehealth services add to those released at the end of March and are welcomed by providers as they continue to grapple with providing much needed care to patients during the COVID-19 pandemic.

Below is a general summary of the additional waivers and new IFR related to telehealth services provided to Medicare beneficiaries:

1. **Expansion of Eligible Practitioners**. Physical therapists, occupational therapists, and speech language pathologists are now included as eligible healthcare professionals to receive reimbursement for covered Medicare telehealth services. Previously, eligible telehealth healthcare professionals were limited to physicians, nurse

Related Work

Healthcare

Hospitals and Health Systems

Medicare, Medicaid, and Third Party Reimbursement

Related Offices

Atlanta

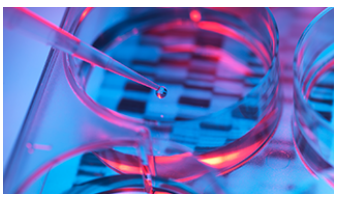
Health Law Rx

Akerman Perspectives on the Latest Developments in Healthcare Law

Visit this Akerman blog

Coronavirus Resource Center

Visit the Resource Center



practitioners, physician assistants, and other specified practitioners.

2. **Audio-Only Telehealth Services**. Telehealth services may be provided through audio-only equipment for certain designated services including evaluation and management (E/M) services, behavioral health counseling, and educational services. Note, however, unless the service is listed as an audio-only covered services, all other telehealth services provided to Medicare beneficiaries **must** be provided using audio and video communications that permit two-way, real-time interactive communication between the patient and the distant site healthcare professional.
3. **Hospital and Critical Access Hospital (CAH) Patients**. The requirements at 42 C.F.R. § 482.12(a)(8)-(9) for hospitals and 42 C.F.R. § 485.616(c) for CAHs, which generally require an agreement with a distant-site hospital for telehealth services to be provided to hospital/CAH patients, are waived. This waiver allows for increased access to patient services, including specialty care to hospital/CAH patients.
4. **Reimbursement Updates**.

- Practitioners who ordinarily practice in a hospital outpatient department (HOPD) providing telehealth services to patients from home, if the home is serving as a temporary provider based department of the hospital, may submit a professional claim with the place of service code for the applicable HOPD and use of modifier 95. Medicare will pay the practitioner under the physician fee schedule (PFS) at the "facility" rate as if the service was furnished in the HOPD. The HOPD may bill the originating site facility fee since the hospital likely would still provide some administrative and clinical support for the telehealth service.
- Periodic assessments provided to patients as part of an opioid treatment program may be provided

via two-way interactive audio-video communication technology. Additionally, where beneficiaries do not have access to such technology, audio-only telephone calls may be used if such services are appropriate within the applicable standard of care and meet all other applicable requirements.

- For purposes of the Medicare Shared Saving Program, for the performance year starting on January 1, 2020, the definition of "primary care services" for purposes of beneficiary assignment to an Accountable Care Organization is expanded to include virtual check-ins, remote evaluation e-visits, and telephone evaluation and management services provided by practitioners via telehealth.
- Work Relative Value Units (wRVUs) are established for telephone E/M codes (CPT codes 99212, 99213, 99214 to 99441, 99442, and 99443) based on crosswalks to the most analogous office/outpatient E/M codes. Additionally, CMS clarified that the time that should be used for E/M should be the time listed in the CPT code descriptor. Further, increased payment rates will be paid for telephone E/M visits to match payment rates under the PFS for office/outpatient visits with established patients.
- For remote patient monitoring (RPM) for patients who have a suspected or confirmed diagnosis of COVID-19, reimbursement will be paid even if the remote monitoring is for a period of less than sixteen (16) days of a thirty (30)-day period as long as no less than two (2) days of monitoring occurs and other requirements for billing the applicable CPT code are met. Currently, the RPM CPT code 99454 cannot be reported for monitoring for fewer than sixteen (16) days during a thirty (30)-day period and CPT codes 99091, 99453, 99457, and 99458 require thirty (30)-day reporting periods.
- The subregulatory process rather than the normal notice and comment rulemaking process will be used to update the Medicare telehealth service list

to expedite the process during the COVID-19 pandemic.

As a reminder, these waivers and interim rules are temporary during the COVID-19 pandemic. Providers should continue to monitor updates and operationally prepare to shift if, and when, the waivers and rules expire.

Please review our previously issued articles on federal and state telehealth updates issued in response to the COVID-19 pandemic. For questions or more information for these new and developing telehealth requirements and implications, please contact any member of the Akerman Healthcare team.
