

Part B Insider (Multispecialty) Coding Alert

Part B Payment: Fee Schedule Proposals Offer E/M Clarity, Big CF Cuts

Plus: Telehealth changes may become permanent.

Part B providers have been hit hard by the pandemic, so you may have assumed proposed 2021 policy changes would be minimal. But that's not the case; moreover, proposed payment rate changes indicate rough times may be ahead for some specialties.

Background: On Aug. 17, the Centers for Medicare & Medicaid Services (CMS) published its Calendar Year (CY) 2021 Medicare Physician Fee Schedule (MPFS) proposed rule in the Federal Register. Though not as dense as last year's behemoth, the 2021 proposal is still chock full of surprises. Highlights include finalized updates on the much-anticipated E/M changes and many COVID-19-inspired telehealth updates.

Check Out 3 Important Proposals

As the pandemic rages on, many in the healthcare industry are hanging on by a thread. Part B providers do have a few things to look forward to if the 2021 proposals are finalized; however, the outlook is not completely rosy.

Consider the following proposed rule takeaways:



1. Expect a Post-COVID Telehealth Expansion

The Medicare telehealth expansion has been a real benefit to many providers hit hard by the pandemic. CMS published interim final rules in March and May that streamlined telehealth and gave clinicians more care options with a plethora of 1135 waivers in place as part of the public health emergency (PHE).

"Most of these regulatory flexibilities are set to sunset upon the expiration or termination of the PHE," warns international law firm Dentons in online analysis.

Now: "The CY 2021 PFS proposed rule includes proposals to maintain an expanded list of Medicare-covered telehealth services and remote service flexibilities until the end of the CY in which the COVID-19 PHE ends, or in some cases beyond, and to clarify existing policies for remote services," the Dentons' attorneys note.

"Several types of services would be permanently approved for delivery via telehealth, including traditional home visits for evaluating and managing patient treatment and certain provider visits for patients with cognitive impairments," counsels New York-based attorney **Ada Kozicz** with Rivkin Radler in the Rivkin Rounds blog.

Kozicz adds, "CMS believes that this expansion will provide enough time for CMS and key stakeholders to consider whether such services should be permanently approved for delivery via telehealth."

A few of the telehealth-related proposed rule highlights include:

- Permanently add some services from the Medicare telehealth list.
- Create a temporary addition list through the PHE called "Category 3."
- Cut frequency limits for skilled nursing facilities (SNFs).
- Permit direct supervision using real-time, interactive audio and video technology (excluding telephone that does not also include video) through Dec. 31, 2021.

Reminder: The CARES Act temporarily removed geographic and originating site barriers for Medicare telehealth services. "The proposed rule does not address these provisions because CMS is limited by statute and cannot permanently expand the list of telehealth providers. CMS notes that making these flexibilities permanent requires an act of Congress," explains **Miranda Franco**, senior policy advisor with Holland & Knight LLP in Washington D.C., in a blog post.

2. Get Ready for 2021 E/M Changes

Backtrack: In the CY 2020 final rule, CMS solidified long-awaited changes to office/outpatient E/M policies and payment rates. The CY 2021 proposed rule explains the final steps and the rollout.

Policies: "As finalized in the CY 2020 PFS final rule, in 2021 we will be largely aligning our E/M visit coding and documentation policies with changes laid out by the CPT® Editorial Panel for office/outpatient E/M visits, beginning Jan. 1, 2021," says CMS in a fact sheet on the rule. "We are proposing a refinement to clarify the times for which prolonged office/outpatient E/M visits can be reported, and are proposing to revise the times used for rate setting for this code set," the agency adds.

Payments: The new increases in payment rates for office/outpatient E/M visits won't sit well with everyone, experts warn. "Specialties that don't generally bill office/outpatient E/M visits would experience the most significant decreases, while specialties and practices that bill higher level established patient visits would see the most significant increases," Franco says.

CMS offers a breakdown of the expected impacts from the payment rate change by specialty in the proposed rule. The details are in Table 90; however, annual changes, volume of patients, and services offered will also greatly affect Medicare revenues, reminds Franco.



3. Prepare for Whopping Conversion Factor Drop

In one of the more shocking CY 2021 proposals, CMS aims to cut the conversion factor (CF) by 10.61 percent. According to the rule, Section 101(a) of MACRA changed the way the CF is calculated; plus, the office/outpatient E/M payment rate changes influenced the agency's decision to drop the CF.

"With the budget neutrality adjustment to account for changes in [relative value units] RVUs, as required by law, the proposed CY 2021 PFS conversion factor is \$32.26, a decrease of \$3.83 from the CY 2020 PFS conversion factor of \$36.09," CMS indicates.

Public outcry: As expected, industry organizations are rattled by the major CF dip, especially in the midst of COVID-19 spikes. Backing up cash-strapped providers, the American Medical Association (AMA) urged Congress to get involved before the final rule is released later this year.

"The AMA appreciates that CMS will implement significant increases to the payment for office visits, based on recommendations on resource costs from the AMA/Specialty Society RVS Update Committee (RUC)," acknowledged **Susan R. Bailey, MD**, AMA president, in a statement on the PFS. "Unfortunately, these office visit payment increases, and a multitude of other new CMS proposed payment increases, are required by statute to be offset by payment reductions to other services, through an unsustainable reduction of nearly 11 percent to the Medicare conversion factor."

Bailey added "For this reason, the AMA strongly urges Congress to waive Medicare's budget neutrality requirement for the office visit and other payment increases. Physicians are already experiencing substantial economic hardships due to COVID-19, so these pay cuts could not come at a worse time."

Deadline: CMS will take comments on the proposed rule until 5 p.m. on Oct. 5, 2020.

Stay tuned: Part B Insider will continue to dissect the CY 2021 proposed rule in future issues.

Resource: Review the PFS proposals at <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-17127.pdf>.