

# Health Information Compliance Alert

## Telehealth: Feds Forge Ahead with Virtual Health Change-Ups

**Plus: See more options for physicians as care goes online.**

The reduction of physicians' administrative burdens is closely tied to health IT innovations and policies. And with advancements in telemedicine, it should come as no surprise that the Medicare Physician Fee Schedule (MPFS) proposals promote more telehealth expansions in 2019.

**Background:** CMS dropped a few bombshells in its proposed MPFS for CY 2019, published in the Federal Register on July 27. The proposed rule shocked with long-promised evaluation and management (E/M) documentation and billing revamps, Quality Payment Program (QPP) overhauls and inclusions, code revaluations, and virtual care introductions.

"Physicians tell us they continue to struggle with excessive regulatory requirements and unnecessary paperwork that steal time from patient care," said CMS Administrator **Seema Verma** in a press release on the MPFS. "This Administration has listened and is taking action."

Verma stressed, "The proposed changes to the Physician Fee Schedule and Quality Payment Program address those problems head-on, by streamlining documentation requirements to focus on patient care and by modernizing payment policies so seniors and others covered by Medicare can take advantage of the latest technologies to get the quality care they need."

### Virtual Options Are on the Horizon for Check-In and Evaluation

Convenience and telemedicine go hand-in-hand. Whether patients live in areas where there are few physicians, are too busy to make it into an office, or remain homebound due to illness, telehealth allows providers the opportunity to check up, coordinate and deliver care virtually.

**Communication basics:** In the MPFS proposal, two new HCPCS codes address communication shortfalls. The separately paid services look to promote virtual check-in and remote evaluation of videos and images uploaded by the patient.

Here are the two new HCPCS codes under review:

- HCPCS code GVC11 (Brief Communication Technology-based Service, e.g. Virtual Check-in)
- HCPCS code GRAS1 (Remote Evaluation of Recorded Video and/or Images Submitted by the Patient).

Efficiency is at the heart of GVC11, letting providers decide if a visit is necessary for a patient through telehealth services, suggests the MPFS fact sheet. "Similarly, the Remote Evaluation of Recorded Video and/or Images Submitted by the Patient would allow practitioners to be separately paid for reviewing patient-transmitted photo or video information conducted via pre-recorded 'store and forward' video or image technology to assess whether a visit is needed," the fact sheet says.

### Telehealth Upkeep and Education Get a Boost

CMS is considering separate pay for these three new CPT® codes for the remote physiologic monitoring of chronic care patients:

- 990X0 - Remote monitoring of physiologic parameter(s) (eg, weight, blood pressure, pulse oximetry, respiratory flow rate), initial; set-up and patient education on use of equipment
- 990X1 - Device(s) supply with daily recording(s) or programmed alert(s) transmission, each 30 days
- 994X9 - Remote physiologic monitoring treatment management services, 20 minutes or more of clinical

staff/physician/other qualified healthcare professional time in a calendar month requiring interactive communication with the patient/caregiver during the month.

"The first two are practice expense codes, a category encompassing the resources providers spend such as office rent, supplies, and medical equipment," explain attorneys **Jodi G. Daniel, Esq.** and **Maya Uppaluru, Esq.** of national firm **Crowell & Moring LLP** in online analysis of the MPFS proposed rule in the C&M Health Law blog. "The third code tracks the amount of time a care provider spends managing patient care using the remote monitoring data, including direct communication with the patient."

**Warning:** The proposals also lack a clear picture of who can work with remote monitoring as the code descriptors refer to "clinical staff/other physicians/other qualified healthcare professional," but the MPFS mentions "practitioners," which could also point to nonphysician practitioners (NPPs), caution Daniel and Uppaluru in the blog post. "Further guidance may be helpful to determine exactly which providers on a care team can spend time working with remote monitoring data," they write.

### **Bundled Payments May Go Away**

Since 2013, the Relative Value Update (RUC) Committee recommended that the kinds of services offered with interprofessional internet consultation CPT® codes 99446-99449 should be considered bundled, suggests the » MPFS proposed rule. But sticking with its pro-health IT policies implemented over the last year, the agency is having second thoughts and propose to pay these existing codes and two new ones separately.

"We believe that proposing payment for these interprofessional consultations performed via communications technology such as telephone or Internet is consistent with our ongoing efforts to recognize and reflect medical practice trends in primary care and patient-centered care management within the PFS," maintains CMS. The agency also implies that "separate payments for interprofessional consultations undertaken for the benefit of treating a patient will contribute to payment accuracy for primary care and care management services," too, the MPFS proposal indicates.

Here are the existing CPT® codes impacted:

- 99446 - ... 5-10 minutes of medical consultative discussion and review
- 99447 - ... 11-20 minutes of medical consultative discussion and review
- 99448 - ... 21-30 minutes of medical consultative discussion and review
- 99449 - ... 31 minutes or more of medical consultative discussion and review.

Here are the new interprofessional internet consultation CPT® codes the RUC discussed:

- 994X0 - Interprofessional telephone/internet/electronic health record referral service(s) provided by a treating/requesting physician or qualified health care professional, 30 minutes
- 994X6 - Interprofessional telephone/internet/electronic health record assessment and management service provided by a consultative physician including a written report to the patient's treating/requesting physician or other qualified healthcare professional, 5 or more minutes of medical consultative time.

### **Keep Compliance in Check with Telehealth Billing**

Though the new options and revaluation of older codes is a boost for tech-savvy providers, that also means that there's more to worry about in regard to compliance. In fact, an April 2018 HHS Office of Inspector General (OIG) report focused on a post-payment audit of telehealth services - and the results weren't favorable.

During the audit period between 2014 to 2015, OIG "found that more than half of the professional telehealth claims paid by Medicare did not have matching originating-site facility fee claims," said the OIG report-in-brief. This cost CMS over \$3.7 million due to non-compliant telehealth claims.

**Insight:** "All indications point to the market for telehealth services continuing to grow, and nearly all state Medicaid programs allow for many services to be provided to their beneficiaries via telehealth," warns attorney **Jeremy D. Sherer, Esq.** of **Hooper, Lundy & Bookman, PC.** in online analysis of the OIG report in the HLB Health Law and Policy

blog. "As a result, government scrutiny should remain on the rise, both from the OIG and otherwise."

**Resources:** Review the CY 2019 MPFS at

<https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-14985.pdf>.

Read the OIG review, report, and brief on improper telehealth payments at

<https://oig.hhs.gov/oas/reports/region5/51600058.asp>.