

Health Information Compliance Alert

Telehealth: Telehealth Remains Front and Center in CY 2021 Policies

See **COVID-19's impact on the changes.**

Last year was fraught with a myriad of healthcare policy highs and lows. Arguably, some of the most epic twists and turns concerned Medicare's telehealth expansion as the feds tried to assist providers struggling to care for patients during a pandemic. A recent release solidifies some of those changes, offering clarification and more updates for 2021.

Background: On Nov. 30, 2020, the Centers for Medicare & Medicaid Services (CMS) released its calendar year (CY) 2021 policy and reimbursement opus, the Medicare Physician Fee Schedule (MPFS) final rule. Published in the Federal Register on Dec. 28, 2020, the policy behemoth ranges from updates on the COVID-19-inspired telehealth expansion to office/outpatient E/M services policy clarifications and everything in between.



Consider These Telehealth Takeaways From the CY 2021 MPFS

Even before the coronavirus threw healthcare for a loop, telehealth was a Medicare priority, according to CMS Administrator **Seema Verma**. "The pandemic accentuated just how transformative it could be, and several months in, it's clear that the healthcare system has adapted seamlessly to a historic telehealth expansion that inaugurates a new era in healthcare delivery," Verma said in a release.

COVID-19 and the expansion of Medicare telehealth services factored heavily in the feds' CY 2021 policies. For example, the agency determined which temporary codes it would make permanent from those added to the Medicare telehealth services list during the COVID-19 PHE.

Remember, CMS already published two interim final rules related to telehealth in March and May that significantly expanded the telehealth services list, including coverage for emergency care, nursing home visits, and physical therapy. Upward of 144 telehealth services were added and are covered through the end of the PHE.

"As a result, preliminary data show that between mid-March and mid-October 2020, over 24.5 million out of 63 million beneficiaries and enrollees have received a Medicare telemedicine service during the PHE," a CMS fact sheet says.



Here's a short list of the telehealth services' highlights in the CY 2021 fee schedule:

New services: The MPFS finalized several new services to the Medicare telehealth services list. "The new services will allow Medicare beneficiaries to have greater access to telehealth, with a particular focus on residents of rural areas, even after the COVID-19 public health emergency ends," explains partner attorney **Eric D. Fader** of Rivkin Radler LLP in the Rivkin Rounds health blog.

Category 3: The final rule created "Category 3" to deal with temporary code additions to the Medicare telehealth list added during the COVID-19 PHE and "through the calendar year in which the PHE ends," a CMS fact sheet notes.

Nursing facilities: CMS followed through on changing telehealth visit frequency limits in subsequent nursing facilities. The agency updated the policy to one visit every 14 days from its past policy of one every 30 days.

Direct supervision: Several services can now be delivered by auxiliary personnel under the direct supervision of a physician, the final rule allows. In these cases, the supervision requirements necessitate the presence of the physician in

a particular location, usually in the same location as the beneficiary when the service is provided. During the PHE, CMS is temporarily modifying the direct supervision requirement to allow for the virtual presence of the supervising physician using interactive audio/video real-time communications technology.

Medical discussion G-code: After hearing from stakeholders, CMS will establish "payment on an interim final basis for a new HCPCS G-code describing 11-20 minutes of medical discussion to determine the necessity of an in-person visit," notes the fact sheet.

Telecommunications update: CMS clarified that services furnished via telecommunications when the patient and provider are in the same place - but not in the same room because of contamination worries - are not considered telehealth.

Research: The agency announced "a commissioned study of its telehealth flexibilities provided during the COVID-19 PHE," a fact sheet says. Research will look at ways to make telehealth and remote monitoring more efficient across the Medicare spectrum.

Resources: Peruse the final rule at www.govinfo.gov/content/pkg/FR-2020-12-28/pdf/2020-26815.pdf

Find the CMS fact sheet on the PFS at www.cms.gov/newsroom/fact-sheets/final-policy-payment-and-quality-provisions-changes-medicare-physician-fee-schedule-calendar-year-1. See more on the telehealth expansion at www.cms.gov/newsroom/press-releases/trump-administration-finalizes-permanent-expansion-medicare-telehealth-services-and-improved-payment.