

CMS-5531-IFC Highlights

On April 30, 2020 the Centers for Medicare & Medicaid Services (CMS) issued the “Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program” interim final rule with comment period (IFC) to provide further regulatory waivers and rule changes during the COVID-19 pandemic. Below are high-level key points from the IFC:

- **Increasing Diagnostic Testing**
 - Medicare will no longer require an order from the treating physician or other practitioner for beneficiaries to get COVID-19 tests and certain laboratory tests required as part of a COVID-19 diagnosis.
 - COVID-19 tests may be covered when ordered by any healthcare professional authorized to do so under state law.
 - CMS will pay hospitals and practitioners to assess beneficiaries and collect laboratory samples for COVID-19 testing, and make separate payment when that is the only service the patient receives.
 - During the public health emergency (PHE), Medicare will cover FDA-authorized COVID-19 serology tests as they are reasonable and necessary.
 - See the [FDA Fact Sheet for Providers on COVID-19 Serology Tests](#) for authorized tests. *Note: Tests will be added to Appendix A by the FDA as approved.*

- **Increasing Hospital Capacity - Hospitals Without Walls**
 - CMS will allow certain provider-based hospital outpatient departments that relocate off-campus to obtain a temporary exception and continue to be paid under the Hospital Outpatient Prospective Payment System (OPPS).
 - Hospitals may also relocate outpatient departments to more than one off-campus location, or partially relocate off-campus while still furnishing care at the original site.
 - Hospital Services Accompanying a Professional Service Furnished via Telehealth
 - When a patient is receiving professional services via telehealth in a temporary expansion location that is a provider-based hospital department (PBD), and the patient is a registered outpatient of the hospital, the hospital may bill the originating site facility fee for the service.

- **Supporting the Healthcare Workforce**
 - Nurse practitioners, clinical nurse specialists, and physician assistants can now provide some home health services for both Medicare and Medicaid.
 - CMS will not reduce Medicare payments for teaching hospitals that shift their residents to other hospitals to meet COVID-related needs, or penalize hospitals without teaching programs that accept these residents.
 - Physical and occupational therapists may delegate maintenance therapy services to physical and occupational therapy assistants in outpatient settings.
 - CMS is waiving a requirement for ambulatory surgery centers (ASCs) to periodically reappraise medical staff privileges during the COVID-19 emergency declaration.

- **Reducing Administrative Burden - Patients Over Paperwork**
 - Allowing payment for certain partial hospitalization services (i.e. individual psychotherapy, patient education, and group psychotherapy that are delivered in temporary expansion locations, including patients' homes.)
 - Temporarily allowing Community Mental Health Centers to offer partial hospitalization and other mental health services to clients in the safety of their homes.
 - CMS will not enforce certain clinical criteria in local coverage determinations that limit access to therapeutic continuous glucose monitors for beneficiaries with diabetes.

- **Expanding Access to Telehealth**
 - Physical therapists, occupational therapists and speech language pathologists may now furnish Medicare telehealth services.
 - Hospitals are allowed to bill for telehealth services provided by hospital-based practitioners in Medicare outpatient settings, including when the patient is in their home.
 - CMS is waiving the video requirement for telehealth evaluation and management (E/M) services, which are added to the list of telehealth services that can be reimbursed for audio-only visits. **(AAOS requested this waiver.)**
 - The types of services that can be reimbursed under Medicare for audio-only telehealth visits expanded to include behavioral health and patient education services, among other services.
 - Reimbursement for Telephone E/M Services will be increased to match similar office and outpatient visits, upping payment from the range of \$14-\$14 to \$46-\$110 and applying payment retroactively to March 1, 2020.

- CMS will now reimburse rural health clinics and federally qualified health clinics for furnishing telehealth at a distant site, which allows Medicare beneficiaries to receive care from home.
 - Hospitals may bill for services furnished remotely by hospital-based practitioners to Medicare patients registered as hospital outpatients, including when the patient is at home when the home is serving as a temporary provider-based department of the hospital.
 - Hospitals may bill as the originating site for telehealth services furnished by hospital-based practitioners to Medicare patients registered as hospital outpatients, including when the patient is located at home.
- **Providing Flexibility for Accountable Care Organizations (ACOs)**
 - CMS is forgoing the annual application cycle for 2021 and giving ACOs whose participation is set to end this year the option to extend for another year.
 - ACOs that are required to increase their financial risk over the course of their current agreement period in the program will have the option to maintain their current risk level for next year, instead of being advanced automatically to the next risk level.
- **Delaying Merit-based Incentive Payment System (MIPS) Qualified Clinical Data Registry (QCDR) Measure Approval Criteria**
 - Implementation of the completion of QCDR measure testing policy and the collection of data on QCDR measures policy delayed by 1 year. **(AAOS requested this flexibility.)**
 - These policies, which were finalized in the 2020 Medicare Physician Fee Schedule Rule, will now be effective on January 1, 2022.

Resources

CMS Fact Sheet: <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>

CMS Press Release: <https://www.cms.gov/newsroom/press-releases/trump-administration-issues-second-round-sweeping-changes-support-us-healthcare-system-during-covid>

Interim Final Rule with comment period: <https://www.cms.gov/files/document/covid-medicare-and-medicaid-ifc2.pdf>