

Davis Brown Health Law Blog



CMS Proposes Expanding Medicare Coverage of Telehealth Services – August 11, 2020

Susan J Freed

On August 3, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule that announces and solicits public comments on proposed policy changes for Medicare payments under the Physician Fee Schedule and other Medicare Part B services provided on or after January 1, 2021. Many of the CMS proposals involve expansion of telehealth services which have gained popularity during the COVID-19 pandemic.



The Proposed Rule would:

- Make permanent the list of services that can be provided by telehealth and covered by Medicare, including group psychotherapy (CPT Code 90853), and home visits for established patients (CPT Codes 99347-99348)
- Temporarily add certain services to Medicare telehealth for the duration of the current public health emergency, including emergency department visits, levels 1 through 3 (CPT Codes 99281-99283), more involved home visits for established patients (CPT Codes 99349-99350), and nursing facility discharge day management (CPT codes 99315-99316)

The Proposed Rule also requests public comment on the following two proposals, a signal CMS is considering making these COVID-19 waivers permanent:

- Allow physician and non-physician practitioner visits of nursing home residents required by 42 CFR § 483.30 to be provided via telehealth
- Develop coding and payment for an audio-only service, similar to a virtual check-in but for a longer unit of time and with an accordingly higher value.

Supervision allowed via telehealth

Finally, the Proposed Rule clarifies that direct supervision of auxiliary personnel can be provided via telehealth for purposes “incident to” billing and proposes extending its current policy allowing “direct supervision” to include virtual presence of the supervising physician or practitioner using interactive audio/video real-time communications technology through the earlier of the duration of the current public health emergency or December 31, 2021.

Therapy services

Notably, CMS declined to add therapy services to the proposed list of telehealth services but is seeking comments on whether they should be added either on a temporary (through the current public health emergency) or permanent basis.

Register your comment

Health care providers who desire to continue to have maximum flexibility in using and providing telehealth services should submit comments to CMS by October 5, 2020. Comments may be submitted electronically at www.regulations.gov by referencing CMS-1734-P. Providers with questions regarding the impact of the proposed rule on their practice and billing should contact a health care attorney.

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