Telemedicine Expansion during the COVID-19 Public Health Emergency - Part 1: Medicare

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The Secretary of the Department of Health & Human Services (DHHS) declared a public health emergency (PHE) in the entire United States on January 31, 2020. On March 13, 2020, DHHS authorized blanket waivers and modifications under Section 1135 of the Social Security Act (1135 Waivers), retroactive to March 1, 2020. These waivers are intended to prevent gaps in access to care for beneficiaries impacted by the COVID-19 emergency.

One important aspect of the 1135 Waiver is that it allows providers to receive reimbursement for office, hospital, patient residence, and other visits furnished via telehealth across the country. Beginning on March 6, 2020, providers that are permitted to perform expanded telehealth visits for a fee under the 1135 Waiver include doctors, nurse practitioners, clinical psychologists, and licensed social workers. During the COVID-19 emergency, these telehealth visits will be considered the same as in-person visits and are paid the same rate as regular, in-person visits.

Prior to this 1135 Waiver, Medicare only paid for telehealth on a very limited basis: when beneficiaries receiving the service were in a designated rural area and when they left their homes and went to a clinic, hospital, or certain other designated medical settings for the service. Professional services furnished to Medicare beneficiaries in any healthcare facility as well as in the beneficiaries' homes will now be reimbursed by Medicare.

In a fact sheet released on March 17, 2020, the Centers for Medicare and Medicaid Services summarized three types of virtual services that physicians and other providers may provide to Medicare beneficiaries: telehealth visits, virtual check-ins, and e-visits.

Telehealth Visits

Medicare patients may replace in-person visits with telehealth visits from any location (not just when patients are seeking treatment at facilities located in rural locations). Under the 1135 Waiver, a Medicare telehealth visit is treated the same as an in-person visit, and can be billed using the code for that service, using place of service 02 to indicate the service was performed via telehealth. Medicare pays the same amount for telehealth services as it would if the service were furnished in person. For services that have different rates in the office versus the facility (the site of service payment differential), Medicare uses the facility payment rate when services are furnished via telehealth.

Virtual Check-Ins

Providers in all areas may be reimbursed for “brief” (5-10 minute) telephone or video conferences, secure text messaging, email, or use of a patient portal with patients to determine whether an office visit or other service is needed. In addition, providers may bill Medicare for remote evaluation of recorded video and/or images submitted by an established patient for the same purpose.

Medicare pays for these “virtual check-ins” (or brief communication via technology-based service) for patients to communicate with their doctors and avoid unnecessary trips to the doctor’s office. These virtual check-ins are for patients who have an established relationship with a physician or certain practitioners where the communication is not related to a medical visit within the previous seven days and does not lead to a medical visit within the next 24 hours. The patient must verbally consent to receive virtual check-in services.

To the extent the 1135 Waiver requires that the patient has a prior established relationship with a particular practitioner, the Department of Health & Human Services has said that it will not conduct audits to ensure that such a prior relationship existed for claims submitted during the COVID-19 emergency.

E-Visits

When established patients initiate communications with a provider through the provider’s patient portal, the provider may bill services using CPT codes 99421-99423 and HCPCS codes G2061-G2063, as applicable. As with virtual check-ins, although the 1135 Waiver limits the use of E-Visits to established patients only, DHHS will not audit whether such prior relationship existed for claims submitted during the COVID-19 emergency.

As an added level of assurance for providers who are unsure about whether such patient communications are HIPAA-compliant, the DHHS Office of Civil Rights has stated that it will exercise enforcement discretion and waive penalties for HIPAA violations against health care providers that serve patients in good faith through everyday technologies such as FaceTime or Skype during the COVID-19 emergency. For more information, visit https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/index.html.

Source: https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet

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