



New 1135 Waivers for Telehealth During COVID-19

April 30, 2020

Leveraging authority granted under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that broadens the waiver authority under section 1135 of the Social Security Act, the Secretary has authorized additional telehealth waivers.

Eligible Practitioners

CMS is waiving the requirements of section 1834(m)(4)(E) and 42 CFR § 410.78 (b)(2) which specify the types of practitioners that may bill for their services when furnished as Medicare telehealth services from the distant site. The waiver of these requirements expands the types of health care professionals that can furnish distant site telehealth services to include all those that are eligible to bill Medicare for their professional services. This allows health care professionals who were previously ineligible to furnish and bill for Medicare telehealth services, including physical therapists, occupational therapists, speech language pathologists, and others, to receive payment for Medicare telehealth services.

Audio-Only Telehealth for Certain Services

CMS is waiving the requirements of section 1834(m)(1) of the ACT and 42 CFR § 410.78(a)(3) for use of interactive telecommunications systems to furnish telehealth services, to the extent they require use of video technology, **for certain services**. This waiver allows the use of audio-only equipment to furnish services described by the codes for audio-only telephone evaluation and management services, and behavioral health counseling and educational services (details below) Unless provided otherwise, other services included on the Medicare telehealth services list must be furnished using, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner.

Community Mental Health Centers (CMHC)

CMS is waiving the specific requirement at § 485.918(b)(1)(iii) that prohibits CMHCs from providing partial hospitalization services and other CMHC services in an individual's home so that clients can safely shelter in place during the PHE while continuing to receive needed care and services from the CMHC. This waiver is a companion to recent regulatory changes (*below*). This waiver will now allow CMHCs to furnish services in client homes, including through the use of using telecommunication technology, assuming they meet other requirements.

Source: [COVID-19 Emergency Declaration Blanket Waivers & Flexibilities for Health Care Providers \(PDF\)](#)



COVID Interim Final Rule

April 30, 2020

SUMMARY OF KEY TELEHEALTH AND REMOTE MONITORING PROVISIONS

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

D. Opioid Treatment Programs (OTPs) – Furnishing Periodic Assessments via Communication Technology

- During the PHE, periodic assessments may be furnished via two-way interactive audio-video communication technology.
- In cases where beneficiaries do not have access to two-way audio-video communications technology, the periodic assessments may be furnished using audio-only telephone calls, provided all other applicable requirements are met. The OTP should continue to document in the medical record the reason for the assessment and the substance of the assessment.

F. Furnishing Outpatient Services in Temporary Expansion Locations of a Hospital or a CMS-5531-IFC 44 Community Mental Health Center (including the Patient's Home)

CMS has received questions about how the hospital should bill during the COVID-19 PHE when the practitioners typically furnishing services in Hospital Outpatient Department (HOPDs) are now instead furnishing professional services as Medicare telehealth services under section 1834(m) of the Act under the flexibilities provided by both the waiver of requirements under section 1135(b)(8) of the Act and the March 31st COVID-19 IFC.

- During the COVID-19 PHE, when telehealth services are furnished by a physician or practitioner who ordinarily practices in the HOPD to a patient who is located at home or other applicable temporary expansion location that has been made provider based to the hospital, the hospital in which the patient is registered may bill the originating site facility fee for the service.
- Partial Hospitalization Program (PHP) – The following services, can now be furnished to beneficiaries by facility staff using telecommunications technology during the COVID-19 PHE:
 - (1) individual psychotherapy;
 - (2) patient education; and
 - (3) group psychotherapy (link to codes at the end of this document).

L. Medicare Shared Savings Program

CMS is modifying the Shared Savings Program to expand the definition of primary care services for purposes of determining beneficiary assignment to include telehealth codes for virtual check-ins, e-visits, and telephonic communication.

- HCPCS code G2010 (remote evaluation of patient video/images) and HCPCS code G2012 (*virtual check-in*)
- CPT codes 99421, 99422 and 99423 (online digital evaluation and management service (e-visit))
- CPT codes 99441, 99442, and 99443 (telephone evaluation and management services)

Seeking comment on the revisions to the definition of primary care services that we are adopting in this IFC including the alternatives considered (and declined) with regard to adding codes used by non-ACO professionals.

M. Additional Flexibility under the Teaching Physician Regulations

Since CMS published the March 31st COVID-19 IFC, stakeholders have requested to allow the teaching physician to meet the requirement to review the service with the resident, during or immediately after the visit, through virtual or remote means via interactive audio/video real-time communications technology. Subsequently, Medicare may make PFS payment to the teaching physician for the following additional services when furnished by a resident under the primary care exception:

- CPT codes 99441 – 99443 (Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment);
- CPT codes 99495 -99496 (Transitional Care Management services with the following required elements: Communication (direct contact, telephone, electronic) with the patient and/or caregiver within two business days of discharge; medical decision making of at least moderate complexity during the service period; face-to-face visit)
- CPT codes 99421 - 99432 (Online digital evaluation and management service, for an established patient, for up to 7 days, cumulative time during the 7 days)
- CPT code 99452 (Interprofessional telephone/internet/electronic health record referral service(s) provided by a treating/requesting physician or qualified health care professional, 30 minutes);
- HCPCS code G2012 (Brief communication technology-based service, e.g. virtual check-in, by a physician or other qualified health care professional who can report evaluation and management services, provided to an established patient, not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5–10 minutes of medical discussion); and
- HCPCS code G2010 (Remote evaluation of recorded video and/or images submitted by an established patient (e.g., store and forward), including interpretation with follow-up with the patient within 24 business hours, not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment).

N. Payment for Audio-Only Telephone Evaluation and Management Services

CMS is now recognizing that the intensity of furnishing an audio-only is not accurately captured by the valuation of these services established in the March 31st COVID-19 IFC. This is particularly true to the extent that these audio-only services are actually serving as a substitute for office/outpatient Medicare telehealth visits for beneficiaries not using video-enabled telecommunications technology.

CMS is establishing new RVUs for the telephone E/M services based on crosswalks to the most analogous office/outpatient E/M codes, based on the time requirements for the telephone codes and the times assumed for valuation for purposes of the office/outpatient E/M codes.

- CMS is crosswalking payment rates for CPT codes 99212, 99213, and 99214 to codes 99441, 99442, and 99443. These codes now have the following work RVUs: 0.48 for CPT code 99441; 0.97 for CPT code 99442; and 1.50 for CPT code 99443.

- CMS not increasing payment rates for CPT codes 98966-98968 as these codes describe services furnished by practitioners who cannot independently bill for E/Ms so by definition, are not furnished in lieu of an office/outpatient E/M service.
- CMS is recognizing these audio-only services as telehealth services, and are adding them to the list of Medicare telehealth services for the duration of the PHE.

S. Application of Certain National Coverage Determination and Local Coverage Determination Requirements during the PHE for the COVID-19 Pandemic

CMS will not enforce the clinical indications for therapeutic continuous glucose monitors in LCDs. This discretion is intended to permit COVID-19 patients to more closely monitor their glucose levels given that they are at risk for unpredictable impacts of the infection on their glucose levels and health.

Z. Time Used for Level Selection for Office/Outpatient Evaluation and Management Services Furnished Via Medicare Telehealth

In the March 31st COVID-19 IFC CMS revised its policy to specify that the office/outpatient E/M level selection for office/outpatient E/M services when furnished via telehealth can be based on MDM or time, with time defined as all of the time associated with the E/M on the day of the encounter.

- In response to feedback about the time measurement, CMS is finalizing that the typical times for purposes of level selection for an office/outpatient E/M are the times listed in the CPT code descriptor.

AA. Updating the Medicare Telehealth List

While CMS believes that it has already added the vast majority of services that it would be appropriate to add to the Medicare telehealth list for purposes of the PHE for the COVID-19 pandemic, it may identify other services that would be appropriate additions to the telehealth list.

- CMS will now use a subregulatory process to modify the services included on the Medicare telehealth list.

CC. Payment for Remote Physiologic Monitoring (RPM) Services Furnished During the COVID-19 Public Health Emergency

CMS was alerted that the RPM service described by CPT codes 99091, 99453, 99454, 99457, and 99458 cannot be reported for monitoring of fewer than 16 days during a 30-day period.

- CMS will now allow RPM monitoring services to be reported to Medicare for periods of time that are fewer than 16 days of 30 days, but no less than 2 days, as long as the other requirements for billing the code are met.
- Payment for CPT codes 99454, 99453, 99091, 99457, and 99458 when monitoring lasts for fewer than 16 days of 30 days, but no less than 2 days, is limited to patients who have a suspected or confirmed diagnosis of COVID-19

Source:

[Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency \(CMS-5531 IFC\) \(PDF\)](#)

Additional Resources:

[List of Hospital Outpatient Services and List of Partial Hospitalization Program Services Accompanying the 4/30/2020 IFC \(ZIP\)](#)

List of Codes Approved for Audio-Only Telehealth

Code	Short Descriptor	Status	Can Audio-only Interaction Meet the Requirements?
90785	Psytx complex interactive		Yes
90785	Psytx complex interactive		Yes
90791	Psych diagnostic evaluation		Yes
90792	Psych diag eval w/med srvc		Yes
90832	Psytx w pt 30 minutes		Yes
90833	Psytx w pt w e/m 30 min		Yes
90834	Psytx w pt 45 minutes		Yes
90836	Psytx w pt w e/m 45 min		Yes
90837	Psytx w pt 60 minutes		Yes
90838	Psytx w pt w e/m 60 min		Yes
90839	Psytx crisis initial 60 min		Yes
90840	Psytx crisis ea addl 30 min		Yes
90845	Psychoanalysis		Yes
90846	Family psytx w/o pt 50 min		Yes
90847	Family psytx w/pt 50 min		Yes
90853	Group psychotherapy	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
92507	Speech/hearing therapy	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
92508	Speech/hearing therapy	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
92521	Evaluation of speech fluency	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
92522	Evaluate speech production	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
92523	Speech sound lang comprehen	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
92524	Behavral qualit analys voice	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96116	Nubhvl xm phys/qhp 1st hr		Yes
96121	Nubhvl xm phy/qhp ea addl hr	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
96127	Brief emotional/behav assmt	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
96130	Psycl tst eval phys/qhp 1st	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96131	Psycl tst eval phys/qhp ea	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes

96132	Nrpsyc tst eval phys/qhp 1st	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96133	Nrpsyc tst eval phys/qhp ea	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96136	Psycl/nrpsyc tst phy/qhp 1st	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96137	Psycl/nrpsyc tst phy/qhp ea	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96138	Psycl/nrpsyc tech 1st	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96139	Psycl/nrpsyc tst tech ea	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
96156	Hlth bhv assmt/reassessment		Yes
96158	Hlth bhv ivntj indiv 1st 30	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
96159	Hlth bhv ivntj indiv ea addl		Yes
96160	Pt-focused hlth risk assmt		Yes
96161	Caregiver health risk assmt		Yes
96164	Hlth bhv ivntj grp 1st 30		Yes
96165	Hlth bhv ivntj grp ea addl		Yes
96167	Hlth bhv ivntj fam 1st 30		Yes
96168	Hlth bhv ivntj fam ea addl		Yes
96168	Hlth bhv ivntj fam ea addl		Yes
97535	Self care mngment training	Temporary Addition for the PHE for the COVID-19 Pandemic	Yes
97802	Medical nutrition indiv in		Yes
97803	Med nutrition indiv subseq		Yes
97804	Medical nutrition group		Yes
99354	Prolong e&m/psyc tx serv o/p		Yes
99355	Prolong e&m/psyc tx serv o/p		Yes
99356	Prolonged service inpatient		Yes
99357	Prolonged service inpatient		Yes
99406	Behav chng smoking 3-10 min		Yes
99407	Behav chng smoking > 10 min		Yes
99441	Phone e/m phys/qhp 5-10 min	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
99442	Phone e/m phys/qhp 11-20 min	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
99443	Phone e/m phys/qhp 21-30 min	Temporary Addition for the PHE for the COVID-19 Pandemic—Added 4/30/20	Yes
99497	Advncd care plan 30 min		Yes
99498	Advncd care plan addl 30 min		Yes

G0108	Diab manage trn per indiv		Yes
G0109	Diab manage trn ind/group		Yes
G0270	Mnt subs tx for change dx		Yes
G0296	Visit to determ ldct elig		Yes
G0396	Alcohol/subs interv 15-30mn		Yes
G0397	Alcohol/subs interv >30 min		Yes
G0406	Inpt/tele follow up 15		Yes
G0407	Inpt/tele follow up 25		Yes
G0408	Inpt/tele follow up 35		Yes
G0420	Ed svc ckd ind per session		Yes
G0421	Ed svc ckd grp per session		Yes
G0425	Inpt/ed teleconsult30		Yes
G0426	Inpt/ed teleconsult50		Yes
G0427	Inpt/ed teleconsult70		Yes
G0436	Tobacco-use counsel 3-10 min		Yes
G0437	Tobacco-use counsel>10min		Yes
G0438	Ppps, initial visit		Yes
G0439	Ppps, subseq visit		Yes
G0442	Annual alcohol screen 15 min		Yes
G0443	Brief alcohol misuse counsel		Yes
G0444	Depression screen annual		Yes
G0445	High inten beh couns std 30m		Yes
G0446	Intens behave ther cardio dx		Yes
G0447	Behavior counsel obesity 15m		Yes
G0459	Telehealth inpt pharm mgmt		Yes
G0506	Comp asses care plan ccm svc		Yes
G0513	Prolong prev svcs, first 30m		Yes
G0514	Prolong prev svcs, addl 30m		Yes
G2086	Off base opioid tx 70min		Yes
G2087	Off base opioid tx, 60 m		Yes
G2088	Off base opioid tx, add30		Yes