

Report on Medicare Compliance Volume 29, Number 14. April 13, 2020 CMS Covers Telehealth Like In-Person Visits During COVID; Back-End Logic Frees M.D.s

By Nina Youngstrom

CMS has erased the line between in-person and telehealth services until the COVID-19 public health emergency subsides, and far more are now covered when provided by audiovisual technology to both new and established patients. To speed things along, physicians and other practitioners are permitted to code their Medicare evaluation and management (E/M) telehealth services only by medical decision-making or time. And reimbursement will be the same whether services are delivered by telehealth or live.

The telehealth landscape was vastly expanded in an interim final rule^[1] that was published in the April 6 *Federal Register*. It came on the heels of the Coronavirus Aid, Relief, and Economic Security (CARES) Act,^[2] which was signed into law by President Trump on March 27, and the March 6 Telehealth Services During Certain Emergency Periods Act of 2020.^[3] And in a surprise move April 9, CMS said instead of being physically present, physicians may use “direct radio or telephone communication or electronic communication, for consultation, assistance with medical emergencies, or patient referral” at critical access hospitals, according to one of several additions to the blanket waivers under Sec. 1135 of the Social Security Act.^[4]

“The telehealth instructions are pretty simple and smart,” said attorney David Glaser, with Fredrikson & Byron in Minneapolis. “You do exactly what you would have done if you were seeing the patient in person.”

One caveat: A CMS official said when providers use technology, such as Skype or iPads, to communicate with patients in different rooms or other floors of the hospital, they shouldn’t bill Medicare for telehealth services. “When they are both in the institutional setting of a hospital ... then telehealth rules would not be applicable,” according to a transcript of an April 7 CMS provider call shared with RMC.

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