2021 Medicare Physician Fee Schedule changes

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Introduction

The Centers for Medicare and Medicaid Services (CMS) has released its annual changes to the Medicare Physician Fee Schedule. In some years, there are significant changes and in others just incremental changes with respect to adding or deleting CPT codes, but the notice of proposed changes from CMS is always a thousand or so pages of published notices and regulations.

For this year, I intend just to highlight the changes to the overall payment rate via the Medicare Conversion Factor and the telehealth changes.

I. 2021 Medicare Conversion Factor Update

The major "across the board" change is the elimination of what would have been a $3.68 reduction in the Medicare Conversion Factor, i.e., the dollar value of each Relative Value Unit (RVU), which reduction was originally intended to offset the higher E/M rates. On Dec. 27, 2020, the Consolidated Appropriations Act modified the Calendar Year (CY) 2021 Medicare Physician Fee Schedule (MPFS) to provide a 3.75% increase in the 2021 conversion factor to $37.45.

The Medicare Conversion Factor is the dollar value CMS places on each RVU for Medicare physician services. Each CPT code has a malpractice expense unit, an overhead unit and a work relative value unit, i.e., the WRVU. CMS adds the units, multiples the units by the annual conversion factor, and thereby arrives at the total payment for each CPT code. The WRVUs assigned to surgical procedures compared to those assigned to cognitive services have always been a point of contention.

Some of you may recall the annual Sustainable Growth Rate (SGR) dance conducted by CMS and Congress in past years. In the past, the balanced budget requirements of the physician fee schedule dictated an automatic conversion factor reduction to offset increased physician services volume. This value readjustment was intended to automatically keep total Medicare spending for physician services within a long-term budget corridor. This automatic deduction was annually postponed by Congress for about a decade, until in 2015, the process would have imposed a 26% conversion factor cut. At that point, the SGR was permanently repealed.

II. Medicare 2021 Telehealth Changes

A. Authorized Medicare Telehealth Coverage for Communication Technology Based Services (CBTS) v. Medicare Telehealth

- See link: https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM10843.pdf

Beginning in January 2019, CMS will reimburse for certain kinds of services furnished remotely using communications technology similar to telehealth services that are not considered "Medicare telehealth services." Because they are not defined specifically as telehealth, the limitations and restrictions outlined previously applicable to telehealth would not apply. These services include the following categories:

- **Brief communication technology-based service (or "virtual check-ins"):** A brief, non-face-to-face check-in with an established patient via communication technology to assess whether or not an office visit or other service is necessary. This service is only available to practitioners who furnish E/M services, and could take place via live video or telephone call.
- **Remote evaluation of pre-recorded patient information:** Remote professional evaluation of patient-transmitted information conducted via pre-recorded video or image technol-

ogy to determine whether an office visit or other service is necessary. This would only be available for established patients.

• **Interprofessional internet consultation:** Interprofessional internet consultations between professionals performed via communications technology. This service is limited to practitioners that can independently bill Medicare for E/M visits. This could take the form of either a telephone call or a live or asynchronous internet consultation. Both the consulting and treating provider could be reimbursed for this service.

• **Online Digital/Medical Evaluations (E-Visit):** Allows a patient to communicate with a provider through an online patient portal.

B. 2021 CMS Medicare physician fee schedule telehealth changes

1. See link: https://www.cms.gov/newsroom/fact-sheets/final-policy-payment-and-quality-provisions-changes-medicare-physician-fee-schedule-calendar-year-1

2. Separate Categories of Covered Services: In addition to expanding the "approved list of telehealth services," based upon CPT codes and compliance with Medicare telehealth reimbursement requirements, CMS has established three additional categories of services in CY 2021:

• Category 1: Services are similar to existing services, such as professional consultations, office visits, and office psychiatry services, which already are approved for telehealth delivery. In deciding whether to approve the new codes, similarities between the requested and existing telehealth services are examined, including interactions among the beneficiary and the practitioner at the distant site and, if necessary, the telepresenter, and similarities in the technologies used to deliver the proposed service.

• Category 2: Services are not similar to Medicare-approved telehealth services. Reviews of these requests include an assessment of whether the service is accurately described by the corresponding CPT code when delivered via telehealth, and whether the

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use of technology to deliver the service produces a demonstrated clinical benefit to the patient.

- Category 3: In the 2021 proposed physician fee schedule, CMS also is proposing to create a third category of criteria for adding service to the Medicare telehealth list on a temporary basis. They are including codes in the list that were added during the PHE for which there is likely to be clinical benefit when furnished via telehealth, but for which there is not yet sufficient evidence available to consider the services as permanent additions under Category 1 or Category 2 criteria. Category 3 services would remain on the Medicare eligible telehealth services list through the calendar year in which the PHE ends. To become permanent, they would need to meet the qualifications of Category 1 or 2.

3. Telehealth direct supervision

Until Dec. 31, 2021, or the end of the PHE (whichever is later), "direct supervision" under 42 C.F.R. § 410.21 can be provided using real-time, interactive audio-video technology.

Under this new/temporary definition, direct supervision can be met if the supervising physician is immediately available to engage via interactive audio-video, as opposed to the existing definition which requires personal/immediate availability in the "office suite." This change does not require the physician's real-time presence or observation of the service via interactive audio-video technology throughout the performance of the procedure. Audio-only technology is not sufficient to fulfill direct supervision requirements.

CMS clarified that services that can be provided incident-to may be provided via telehealth incident-to a distant-site physician's service and under the direct supervision of the billing practitioner via virtual presence.

III. Additional Changes: Office and Outpatient Evaluation and Management (E/M) Services

CMS proposes to implement finalized CPT descriptors, guidelines and payment rates on Jan. 1, 2021, which will be a significant modification to the coding, documentation and payment of evaluation and management (E/M) services for office and outpatient visits. The CPT coding changes will retain five levels of coding for established patients, reduce the number of levels to four for new patients, and revise the code definitions. A new CPT code for extended office visit time also will be implemented. History and physical exams should continue to be performed as medically appropriate; however, these elements will no longer be a consideration for code level selection. Physicians can choose the E/M visit level based on either medical decision making or time.

Conclusion

For a more complete explanation of all of the Medicare Physician Fee Schedule changes, please visit the following link on the PAMED website: https://www.pamedsoc.org/detail/article/2021-mfps.

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