Proposed CY 2023 PHYSICIAN FEE SCHEDULE

FACT SHEET I July 2022

On July 7, 2022 the Centers for Medicare and Medicaid Services (CMS) released the unpublished version of the proposals for the CY 2023 Medicare Physician Fee Schedule (PFS). CMS uses this process to make administrative updates on Medicare's policy related to telehealth. This year, the telehealth proposals focused primarily on what services will be covered by the program and what will happen immediately following the end of the public health emergency (PHE).

End of the Public Health Emergency (PHE)

As required by the 2022 Budget Act, when the PHE is over, a 151-day grace period will allow some of the temporary COVID-19 telehealth policies to remain. The Budget Act specified that federally qualified health centers (FQHCs), rural health clinics (RHCs), physical therapists, occupational therapists, audiologists and speech-language pathologists remain eligible providers to be reimbursed by Medicare if they provide certain services via telehealth during this grace period. The patient may also be in the home when receiving these services and the geographic limitation would also not apply during the 151 days.

What was not made clear by the Act, but CMS has clarified in the 2023 PFS proposals, is that the list of services that were temporarily allowed to be delivered via telehealth and reimbursed by Medicare during the PHE, will still be allowed during the 151-day grace period. During the COVID-19 pandemic, additional services were temporarily placed on the eligible services list if provided by telehealth. Some of these services have been approved to be made permanently available even after the PHE, others were put into a special category that will make them temporarily available through the end of 2023, and the rest are not eligible to be provided via telehealth in the Medicare program after the PHE is declared over. CMS stated that they are allowing these latter services to continue to be eligible through the 151-day grace period to align with the intent of creating the grace period.

CMS also noted that the 2022 Budget Act delayed policies around the provision of mental health via telehealth that were put into law by the Consolidated Appropriations Act passed in December 2020. The 2022 PFS would have allowed the use of telehealth to provide certain mental and behavioral health services without the geographic requirement; the patient could be in the home; and audio-only could be used as a modality if certain conditions were met. The 2022 Budget Act required that implementation of these provisions also be delayed for 151-days after the PHE. CMS noted it will be complying with this requirement.

Due to the uncertainty of exactly when the PHE will be over and the short window to take action (151 days), CMS also stated that implementation of any future policies afterwards will need to be done through issuances of guidance and the sub-regulatory process rather than the typical regulatory process.

Services

Much of the telehealth policies in Medicare are embedded in federal law and would require Congressional action to change. However, one area that is primarily in the administrating agency's realm to control is deciding which services to put on the permanent list that will be covered by Medicare if telehealth is used to deliver the service. The public is allowed to send in requests to have certain services, CPT codes, added to this list. The codes can be added to the list if they pass one of two tests:

Category 1 – The service is similar to a service already on the permanent telehealth services list.

Category 2 – There is sufficient evidence to show that the service can be safely and effectively provided via telehealth.

In 2020, CMS added a third category that was not a test, but rather a temporary holding place for some of the services that had been added to the temporary COVID-19 list. CMS felt that these services had potential to pass either a Category 1 or 2 test, but more time was needed to gather the evidence. Therefore, services in this Category 3 will still be available to be provided via telehealth under the Medicare program until the end of 2023.

CMS stressed that for services to qualify to be provided via telehealth, they needed to be analogous to in-person services. In other words, if the service could be substituted for an in-person service and was one CMS covered under Medicare, it might be a service that could be provided via telehealth. For example, CMS received requests to add 91110 and 95251 to Category 3. CMS noted that they believed these were non-face-to-face services and would not be a substitute for in-person services. Therefore, they would not be added to the list. However, CMS is requesting information on whether these services would involve an in-person service without the use of a telecommunication system.

The above reasoning also led CMS to state that it would not be adding CPT codes 99441-99443, Telephone E/M visit codes, to Category 3. Instead, CMS is assigning a "bundled" status to these codes after the PHE and 151-day grace period. CMS will post the RUC-recommended RVUs for these codes during the course of their normal procedures.

For this current PFS proposal, CMS is moving additional codes from the temporary COVID-19 list to Category 3. This means that these codes, along with the others that had already been placed into the category, will remain available to be provided via telehealth at least to the end of 2023. Other codes that did not get moved into Category 3 or have not passed Category 1 or 2, but remain on the COVID-19 temporary list will become unavailable 152 days after the end of the PHE.

ADDED TO CATEGORY 3 UNDER THIS PFS, AVAILABLE UNTIL THE END OF 2023		WILL BE UNAVAILABLE 152 DAYS AFTER END OF PHE	
HCPCS	CODE	HCPCS	Short Descriptor
90875	Psychophysiological therapy	77427	Radiation tx management x5
90901	Biofeedback train any meth	92002	Eye exam new patient
92012	Eye exam estab pat	92004	Eye exam new patient
92014	Eye exam & tx estab pt 1/>vst	92550	Tympanometry & reflex thresh
92507	Speech/hearing therapy	92552	Pure tone audiometry air
92550	Tympanometry & reflex thresh	92553	Audiometry air & bone
92552	Pure tone audiometry air	92555	Speech threshold audiometry
92553	Audiometry air & bone	92556	Speech audiometry complete
92555	Speech threshold audiometry	92557	Comprehensive hearing test
92556	Speech audiometry complete	92563	Tone decay hearing test
92557	Comprehensive hearing test	92565	Stenger test pure tone
92563	Tone decay hearing test	92567	Tympanometry
92567	Tympanometry	92568	Acoustic refl threshold tst
92568	Acoustic refl threshold tst	92570	Acoustic immitance testing
92570	Acoustic immitance testing	92587	Evoked auditory test limited
92587	Evoked auditory test limited	92588	Evoked auditory tst complete
92588	Evoked auditory tst complete	92601	Cochlear implt f/up exam <7
92601	Cochlear implt f/up exam <7	92625	Tinnitus assessment
92625	Tinnitus assessment	92626	Eval aud funcj 1st hour
92626	Eval aud funcj 1st hour	92627	Eval aud funcj ea addl 15
92627	Eval aud funcj ea addl 15	93750	Interrogation vad in person
94005	Home vent mgmt supervision	94002	Vent mgmt inpat init day
95970	Alys npgt w/o prgrmg	94003	Vent mgmt inpat subq day
95983	Alys brn npgt prgrmg 15 min	94004	Vent mgmt nf per day
95984	Alys brn npgt prgrmg addl 15	96125	Cognitive test by hc pro
96105	Assessment of aphasia	99218	Initial observation care
96110	Developmental screen w/score	99219	Initial observation care

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HCPCS	CODE	HCPCS	Short Descriptor
96112	Devel tst phys/qhp 1st hr	99220	Initial observation care
96113	Devel tst phys/qhp ea addl	99221	Initial hospital care
96127	Brief emotional/behav assmt	99222	Initial hospital care
96170	Hlth bhv ivntj fam wo pt 1st	99223	Initial hospital care
96171	Hlth bhv ivntj fam w/o pt ea	99234	Observ/hosp same date
97129	Ther ivntj 1st 15 min	99235	Observ/hosp same date
97130	Ther ivntj ea addl 15 min	99236	Observ/hosp same date
97150	Group therapeutic procedures	99304	Nursing facility care init
97151	Bhv id assmt by phys/qhp	99305	Nursing facility care init
97152	Bhv id suprt assmt by 1 tech	99306	Nursing facility care init
97153	Adaptive behavior tx by tech	99324	Domicil/r-home visit new pat
97154	Grp adapt bhv tx by tech	99325	Domicil/r-home visit new pat
97155	Adapt behavior tx phys/qhp	99326	Domicil/r-home visit new pat
97156	Fam adapt bhv tx gdn phy/qhp	99327	Domicil/r-home visit new pat
97157	Mult fam adapt bhv tx gdn	99328	Domicil/r-home visit new pat
97158	Grp adapt bhv tx by phy/qhp	99341	Home visit new patient
97537	Community/work reintegration	99342	Home visit new patient
97542	Wheelchair mngment training	99343	Home visit new patient
97530	Therapeutic activities	99344	Home visit new patient
97763	Orthc/prostc mgmt sbsq enc	99345	Home visit new patient
98960	Self-mgmt educ & train 1 pt	99441	Phone e/m phys/qhp 5-10 min
98961	Self-mgmt educ/train 2-4 pt	99442	Phone e/m phys/qhp 11-20 min
98962	Self-mgmt educ/train 5-8 pt	99443	Phone e/m phys/qhp 21-30 min
99473	Self-meas bp pt educaj/train	99468	Neonate crit care initial
0362T	Bhv id suprt assmt ea 15 min	99471	Ped critical care initial
0373T	Adapt bhv tx ea 15 min	99475	Ped crit care age 2-5 init
		99477	Init day hosp neonate care

CMS is proposing the addition on a Category 1 basis to the permanent telehealth service list:

- ***GXXX1*** *– Prolong hospital inpatient or observation care evaluation and management service(s) beyond the total time for the primary services (when the primary service has been selected using time on the date of the primary service); each additional 15 minutes by the physician or qualified healthcare professional, with or without direct patient contact (list separately in addition to CPT codes 99223, 99233, and 99236 for hospital inpatient or observation care evaluation and management services). (Do not report GXXX1 on the same date of service as other prolonged services for evaluation and management 99358, 99359, 993X0). (Do not report GXXX1 for any time unit less than 15 minutes))*

- ***GXXX2*** *- (Prolonged nursing facility evaluation and management service(s) beyond the total time for the primary service (when the primary service has been selected using time on the date of the primary service); each additional 15 minutes by the physician or qualified healthcare professional, with or without direct patient contact (list separately in addition to CPT codes 99306, 99310 for nursing facility evaluation and management services). (Do not report GXXX2 on the same date of service as other prolonged services for evaluation and management 99358, 99359, 993X0,). (Do not report GXXX2 for any time unit less than 15 minutes))*

- ***GXXX3*** *- (Prolonged home or residence evaluation and management service(s) beyond the total time for the primary service (when the primary service has been selected using time on the date of the primary service); each additional 15 minutes by the physician or qualified healthcare professional, with or without direct patient contact (list separately in addition to CPT codes 99345, 99350 for home or residence evaluation and management services). (Do not report GXXX3 on the same date of service as other prolonged services for evaluation and management 99358, 99359, 99417). (Do not report GXXX3 for any time unit less than 15 minutes)) to describe prolonged services associated with certain types of E/M services.*

Modifiers

CMS writes that during the 151-day grace period, the "95" modifier should continue to be used but afterwards the appropriate place of service (POS) modifier will need to be used, while "95" will be discontinued. For telehealth services furnished after the 151-day grace period, the POS will be:

- ***POS "02"*** *- which would be redefined, if finalized, as Telehealth Provided Other than in Patient's Home (Descriptor: The location where health services and health related services are provided or received, through telecommunication technology. Patient is not located in their home when receiving health services or health related services through telecommunication technology.); and*

- ***POS "10"*** *- Telehealth Provided in Patient's Home (Descriptor: The location where health services and health related services are provided or received through telecommunication technology. Patient is located in their home (which is a location other than a hospital or other facility where the patient receives care in a private residence) when receiving health services or health related services through telecommunication technology.)*

Beginning January 1, 2023, when billing for audio-only, modifier "93" should be appended to the appropriate CPT code. CMS is proposing FQHCs, RHCs and opioid treatment programs (OTP) also use modifier "93" when billing for audio-only instead of using "FQ" as previously instructed. CMS' reason is that this will simplify billing and be more consistent with their other audio-only policies.

Direct Supervision

During the COVID-19 pandemic, CMS allowed telehealth to be used in places requiring direct supervision of diagnostic tests, physicians' services and some hospital outpatient services. CMS is not proposing at this time to make these temporary changes permanent. However, they do request feedback on possibly extending or making such allowances permanent. CMS stresses, that once the PHE is declared over, the temporary virtual supervision as a means of meeting direct supervision requirements will no longer be available (it will not be an option during the 151-day grace period) and that "telehealth services can no longer be performed by clinical staff incident to a physician's professional service."

OTPs & Intake

CMS proposes to allow OTPs intake add-on code to be furnished by live video when billed for the initiation of treatment with buprenorphine, to the extent it is authorized by the Drug Enforcement Agency (DEA) and Substance Abuse and Mental Health Services Administration (SAMHSA). Additionally, CMS has proposed to allow audio-only to be used when live video is not available to the beneficiary.

Telehealth Indicator

CMS is proposing adding a telehealth indicator to the Physician Compare Finder found on the Medicare website. The Compare tool allows beneficiaries to search for providers and how to access care. CMS is proposing adding among the searchable items whether a clinician uses telehealth to deliver services. Providers will be identified based upon their use of POS 02.

Other

- Telehealth facility fee will be $28.61 in 2023
- Addressing concerns raised last year on inclusion of clinical labor codes that could be billed by qualified nonphysician professionals and direct supervision by the billing practitioner in remote therapeutic monitoring (RTM), CMS is proposing four new HCPCS G codes:
  - ***GRTM1***—*(Remote therapeutic monitoring treatment management services, physician or NPP professional time over a calendar month requiring at least one interactive communication with the patient/caregiver during the calendar month; first 20 minutes of evaluation and management services).*
  - ***GRTM2*** *- (Remote therapeutic monitoring treatment management services, physician or NPP professional time over a calendar month requiring at least one interactive communication with the patient/caregiver over a calendar month; each additional 20 minutes of evaluation and management services during the calendar month (List separately in additional to code for primary procedure).*
  - ***GRTM3*** *- (Remote therapeutic monitoring treatment assessment services, first 20 minutes furnished personally/directly by a nonphysician qualified health care professional over a calendar month requiring at least one interactive communication with the patient/caregiver during the month).*
  - ***GRTM4*** *- (Remote therapeutic monitoring treatment assessment services, additional 20 minutes furnished personally/directly by a nonphysician qualified health care professional over a calendar month requiring at least one interactive communication with the patient/caregiver during the calendar month (List separately in addition to code for primary procedure)).*

Analysis

As indicated from the foregoing, much of the focus of the proposals is on what will occur post-PHE, particularly within the 151-day grace period. Some of the information was known due to the passage of the 2022 Budget Act, but the fate of other temporary telehealth COVID policies were less clear. In the PFS proposal, CMS has clarified a few outstanding questions such as the fact that the temporary COVID-19 telehealth eligible services list will extend into the 151-grace period. They have also added some additional codes to Category 3, extending for now, their availability at least through 2023. However, they also made clear that some policies will be disappearing once the PHE is over such as allowing for direct supervision to be done via virtual means.

Additionally, given the unknown timing of when the PHE will be declared over and the short grace period afterwards, CMS notes that it will not be utilizing their usual regulatory process to inform the public of next steps, but instead will be issuing guidance and using the sub-regulatory process. Not only is the timing of the availability of these instructions unknown, but there may be limited opportunities for public comment.

At this point these proposals are simply proposals. While the PFS was made available on July 7, 2022, they will not be officially published until July 29, 2022. The public will have sixty days after the latter date to provide feedback and comments to CMS, which will take that period out to late September. The finalized version of the PFS will need to be published before the end of 2022.

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