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Proposed MPFS Rule: Hospital Outpatient Telehealth Services, Virtual Presence Would Continue

By Nina Youngstrom

Before exiting stage left, two aspects of Medicare telehealth coverage—virtual supervision and removal of frequency limits on subsequent hospital and nursing facility visits—may be welcomed back, according to the proposed 2024 Medicare Physician Fee Schedule (MPFS) rule announced July 12.[1] And the curtain could be coming down on the definition of "substantive portion" for split/shared visits now that CMS would delay the time-only version for at least another year and mentions revising it. CMS also proposed allowing hospitals to continue to bill for certain outpatient services—such as diabetes self-management training—delivered by telehealth to patients at home through the end of next year.

"There seems to be leniency toward providers," said Richelle Marting, an attorney and certified coder in Olathe, Kansas. "CMS is bringing certain [COVID-19] public health emergency flexibilities back and extending certain flexibilities longer than anticipated."Also, while the rule overall reduces payments by 1.25%, Medicare would separately pay for new services, including complexity add-on codes and several categories of social determinants of health-related services.

"I worry, though, that as much back and forth as CMS has been doing to revive flexibilities after the PHE ended so providers can avoid a sudden change and instead have ample time to prepare for rule changes, the delay might have the opposite effect," Marting said. Physicians and other practitioners might not bother to prepare for an end to certain flexibilities because "they don't think it will ever go into effect," she said. "Although it's favorable to providers, it's hard to establish practice patterns and programs when the rules keep changing."

CMS on the same day announced the proposed 2024 outpatient prospective payment system rule.[2] Among many other things, CMS made significant changes to price transparency requirements. "The extent of the changes suggests that CMS is not happy with the efforts that hospitals have made to comply and will increase the specificity of the requirements and enforcement," said Ronald Hirsch, M.D., vice president of R1 RCM. CMS also added coverage for dental services in specific clinical circumstances, such as before valve surgery or transplantation. No changes were made to the two-midnight rule or inpatient-only list, he noted.

The proposed MPFS rule is brimming with telehealth developments. In a big-picture way, CMS envisions a new "taxonomy" for coverage. Currently, there are three categories: Category 1 is defined as "services that are similar to professional consultations, office visits, and office psychiatry services that are currently on the Medicare telehealth services list." Category 2 codes require "evidence of clinical benefit if provided as telehealth." Category 3 codes, which are in a holding pattern while CMS determines whether they merit a permanent spot (category 1 or 2), were created in response to the COVID-19 public health emergency (PHE).