



## OUTPATIENT CLINICS AND ED EMPTY? CMS'S EMERGENCY WAIVERS MAY HELP BOOST HOSPITAL OUTPATIENT VOLUMES

May 8, 2020

In the wake of the COVID-19 public health emergency (“PHE”), hospitals nationwide have seen a dramatic decrease in outpatient volumes. Although some states are once again allowing elective surgical procedures, stay-at-home orders and fear of infection have discouraged patients from visiting hospital Emergency Departments (“ED”) and outpatient clinics. More and more patients are staying home and accessing healthcare services through telehealth. However, until recently only professional claims could be billed for services provided to patients at home through telehealth. On April 30, 2020, CMS issued an [interim final rule](#) that allows certain hospital services provided to patients in their homes to be covered under the Hospital Outpatient Prospective Payment System (“OPPS”). Also, hospitals may now bill an originating site facility fee when the services are furnished using telehealth. The interim final rule will give hospitals greater flexibility to deliver and receive payment for important outpatient services while maintaining infection control. Importantly, the provisions in the interim final rule are retroactive to March 1, 2020.

Below we have provided an overview of the newly issued waivers and flexibilities.

### HOSPITALS CAN BILL UNDER OPPS FOR OUTPATIENT SERVICES PROVIDED TO PATIENTS LOCATED AT HOME USING TELEHEALTH

Typically, under Medicare coverage requirements, Medicare will not cover therapeutic hospital outpatient services furnished to a beneficiary outside of the hospital or outside of a provider-based department (“PBD”) of the hospital. CMS has waived these Medicare coverage requirements for the duration of the PHE. Now, a Medicare beneficiary’s home may be considered a temporary expansion location or PBD of a hospital.<sup>1</sup> Furthermore, hospitals are now permitted to bill under OPPS (or CAH payment methodology) for certain services furnished in the Medicare beneficiary’s home as if the services were performed in the hospital. This includes services furnished using telecommunication technology.

Services that may now be billed under OPPS include behavioral health, physical therapy, counseling, partial hospitalization programs and even emergency services (please see Hancock Daniel’s Client Advisory titled [CMS FAQs Provide Clarification Regarding Compliance with EMTALA During Public Health Emergency](#) for more information regarding the use of telehealth to provide emergency services). Providers should be aware that for services to be covered, the hospital’s clinical staff must furnish the hospital outpatient therapy and the patient must be registered as an outpatient of the hospital.

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<sup>1</sup> CMS has provided separate instructions on how to establish a beneficiary’s home as a PBD.

## HOSPITALS CAN BILL FOR AN ORIGINATING SITE FACILITY FEE EVEN WHEN PATIENTS ARE LOCATED AT HOME

Not only can the hospital bill under OPPS for services provided to patients in the home, but they can also bill the originating site facility fee to support any telehealth services provided to a registered hospital outpatient by a physician or practitioner whether the practitioner is onsite at the hospital or providing services from a distant location. This includes registered outpatients who are at home when the home is made a PBD to the hospital.

## PAYMENT IS AVAILABLE FOR TELEMEDICINE SERVICES PROVIDED USING AUDIO-ONLY TELECOMMUNICATIONS

CMS acknowledged that in some cases, beneficiaries might not have access to video communication technology. Therefore, under a newly issued waiver, CMS now permits certain services to be provided using audio-only telecommunications.<sup>2</sup>

If you would like assistance determining how to utilize the waivers to potentially increase volumes for outpatient services, please contact a member of Hancock Daniel's [COVID-19 Taskforce](#).

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<sup>2</sup> CMS has published a full list of approved Medicare telehealth codes. The list denoting which codes may be provided through audio-only communication on its website.