

March 31, 2020

CMS Announces Additional Regulatory Changes in Light of Covid-19 Emergency

The Centers for Medicare and Medicaid Services has issued [additional regulatory flexibility](#) to assist healthcare professionals and hospitals to meet increased demands on capacity due to the Covid-19 crisis. The relevant changes fall roughly into three categories: (1) increasing hospital capacity, (2) rapidly expanding the healthcare workforce, and (3) promoting further use of telehealth in Medicare. **Keep in mind that Medicare policy often sets the standard for other federal healthcare programs, such as Medicaid and CHIP, and private payers, who then may follow suit with similar policies of their own.** The regulatory changes outlined below are temporary and will remain in effect for the duration of the Covid-19 pandemic.

Increasing Hospital Capacity:

- Hospitals will be able to transfer patients to outside facilities, such as ambulatory surgery centers, inpatient rehabilitation hospitals, hotels or dormitories while still receiving hospital payments from Medicare.
- Healthcare systems, hospitals, and communities are permitted to set up testing and screening sites for the purposes of identifying Covid-19 positive patients, including drive-through and off-campus test sites.
- Medicare will pay lab technicians to visit patients in their homes to administer a Covid-19 test.

Expanding Healthcare Workforce:

- Hospitals are permitted to provide benefits and supports to their medical staffs including meals, laundry services for personal clothing, and childcare, while physicians and other staff provide care to patients.
- Enrollment in Medicare is being simplified so that private practice clinicians and their staffs can be available for temporary employment since non-essential surgical and medical services are being delayed during the pandemic.
- CMS is temporarily waiving requirements that out-of-state practitioners be licensed in the state where they are providing services when they are licensed in another state under these four conditions: (1) health care professionals must be enrolled in the Medicare program, (2) they must possess a valid license to practice in the state linked to their Medicare enrollment, (3) they are furnishing services via telehealth or in-person in a state where the emergency is occurring while contributing to emergency relief efforts, and (4) they are not affirmatively excluded from practicing in their own state or any other state. The state would also have to waive its licensure requirements, either individually or categorically, for the type of practice for which the physician or non-physician practitioner is licensed by his or her home state for this to apply.
- Specifically addressing Medicaid and CHIP, the guidelines permit health care professionals located out of state to provide care to another state's Medicaid enrollees who are being affected by the emergency, so long as they are licensed in another state to provide that care.

Further Promotion of Telehealth Services in Medicare

- CMS is encouraging the use of telehealth services to replace face-to-face visit requirements in an expanded number of settings, including inpatient rehabilitation facilities, home health, and hospice, in addition to the use of commonly available interactive applications with audio-visual capabilities.
- When a physician determines that a patient should not leave his or her home due to a medical reason or suspected Covid-19 infection, yet they need skilled services, the patient can be classified as homebound for purposes of the Medicare Home Health Benefit and receive services at their residence.
- Virtual check-ins between a patient and their physician by audio or video means can be provided to both new and established patients.