AAMC Regulatory Resource

Medicare Coverage of Behavioral Health Via Telecommunications Technology

KEY TAKEAWAYS
• Before the public health emergency (PHE), telehealth behavioral health services could only be furnished to Medicare beneficiaries in rural locations and at originating sites unless beneficiaries were diagnosed with substance use disorders (SUD) and co-occurring mental health disorders and for the purpose of treating these conditions. • During the PHE, behavioral health services can be furnished via telehealth regardless of the location of the patient or physician. This includes services billed under the Medicare Physician Fee Schedule and services provided and billed through Hospital Outpatient Programs including the Partial Hospitalization Program, such as individual psychotherapy, patient education and group psychotherapy. • Under the Consolidated Appropriations Act of 2021 which CMS implemented in the 2022 Physician Fee Schedule, Medicare beneficiaries will permanently be able to receive telehealth services for purposes of diagnosis, treatment or evaluation of mental health disorders (in addition to substance use disorders, which was previously allowed) in all geographic regions of the country and locations, including the home. • The 2022 Physician Fee Schedule also finalized payment for behavioral health services using audio-only technology.

I. BACKGROUND

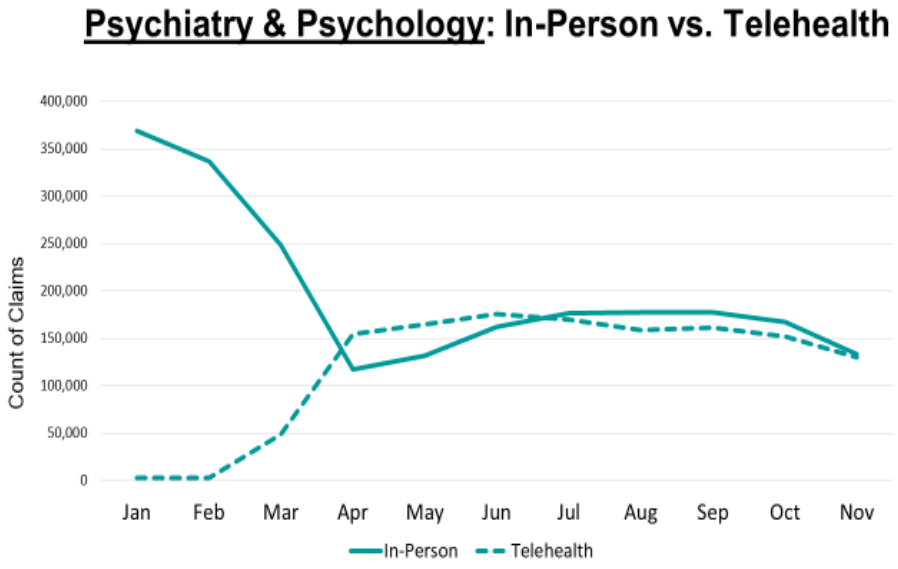
Prior to the COVID-19 pandemic, the Medicare program generally only paid for telehealth when the patient was located in a rural area and received the telehealth service in a clinic, hospital, or certain other types of medical facilities. In addition, Medicare required that for payment purposes telehealth services involve the use of an interactive audio and video communications system. Behavioral telehealth services (except for SUDs), like other telehealth services, were subject to the same limitations. The Support Act removed the originating site geographic requirement for telehealth services furnished on or after July 1, 2019, but only for treating individuals diagnosed with a SUD or a co-occurring mental health disorder. The Support Act also added the home of an individual as a permissible originating site for telehealth services for the purpose of treating individuals diagnosed with a SUD or a co-occurring mental health disorder.

During the COVID-19 nationwide PHE, the Centers for Medicare & Medicaid Services (CMS) established waivers and flexibilities that allow Medicare payment for telehealth services in all geographic regions and locations, including the patient's place of residence. Additionally, Medicare will pay for audio-only (i.e., telephone services) for specific services (telephone evaluation and management, behavioral health counseling, or educational services). These waivers and flexibilities have facilitated the widespread use of telehealth and other communication-based technologies. Teaching hospitals, teaching physicians and other health

care providers have responded by rapidly implementing telehealth in their practices to provide continued access to medical care for their patients. These waivers have been especially beneficial for the delivery of mental health services. The Centers for Disease Control (CDC) has identified an increasing demand for mental health services due to the pandemic.

II. Utilization of Telehealth for Behavioral Health Services in Faculty Practices

The AAMC analyzed data from the Clinical Practice Solutions Center (CPSC) consisting of claims for psychiatry and psychology services submitted by faculty physician practices. The graph below illustrates psychiatry and psychology services that were furnished in-person or via telehealth from January 2020 and November 2020. In April, at the early stages of the PHE, telehealth visits for psychiatry and psychology surpassed fifty percent of the total services. The use of telehealth remained high throughout the year, at roughly fifty percent. Data also shows that there were fewer missed appointments for behavioral health services provided by telehealth than in-person visits



Source: AAMC analysis of physician claims billed by Faculty Practice Plan members of the Clinical Practice Solutions Center. The Clinical Practice Solutions Center (CPSC) is a jointly owned product of the Association of American Medical Colleges (AAMC) and Vizient that collects billing data from member practice plans to provide benchmarks and help them improve performance.

Note: 70 CPSC members had shared their claims data through November at the time of this analysis (March 2021). "Total encounters" includes all in-person and telehealth claims payable under the Medicare Physician Fee Schedule when furnished via telehealth, as outlined by CMS for the COVID-19 Public Health Emergency, effective March 1, 2020 and updated 4/30/2020: https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes. Telehealth encounters were identified based on place of service = 02 or modifiers 95, GT, GQ, G0 on the claim; CPT codes G2010, G2012, 99451, 99452, 99446-99449, 99421-99423, 99091, 99457, 99458, 99473, 99474, and 99493-99495 were also counted as telehealth. Claims are across all payers and from service sites 02 – Telehealth, 11 – Office, 19 – Off Campus Outpatient Hospital, 21 – Inpatient Hospital, and 22 – On-Campus Outpatient Hospital

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III. Behavioral Health Services During the PHE:

Behavioral Health Summary

During the PHE, Medicare reimburses under the physician fee schedule for telehealth behavioral health services, including psychiatric diagnostic interview examination, individual psychotherapy,

and group therapy regardless of patient location. These services are reimbursed at the same rate as in person services. A list of the CPT codes of services included on the telehealth list by Medicare during the PHE is included in the Appendix at the end of this document.

In addition, Medicare will reimburse hospitals, under the Outpatient Prospective Payment System (OPPS) or otherwise applicable payment system, for behavioral health services furnished remotely by hospital clinical staff to Medicare patients registered as hospital outpatients, including when the patient is at home. Examples of these services include counseling, psychotherapy, group therapy, and partial hospitalization program services.

For the duration of the PHE, the Drug Enforcement Administration lifted existing requirements that a health care professional conduct an initial, in-person examination of a patient—thereby establishing a doctor-patient relationship—before electronically prescribing a controlled substance.

Hospital Outpatient and CMHC Therapy, Education, and Training Services

In many cases, hospitals provide hospital outpatient behavioral health, education, and training services that are furnished by hospital-employed counselors or other licensed professionals. Examples of these services include psychoanalysis, psychotherapy, diabetes self-management training, and medical nutrition therapy. These services can, in many cases, be billed by providers such as hospitals under the OPPS or by physicians and other practitioners as services incident to their professional services under the PFS.

During the PHE, outpatient therapy, counseling, and educational services provided by hospital clinical staff can be furnished using telecommunications technology to a beneficiary in their home or other temporary expansion location that functions as a provider-based department (PBD) of the hospital when the beneficiary is registered as an outpatient of the hospital. If the services can be effectively provided using telecommunications technology, the clinical staff and patient are not required to be in the same location. Additionally, hospitals may bill for these services as if they were furnished in the hospital and consistent with any requirements for billing Medicare in general.

Partial Hospitalization Program

The Partial Hospitalization Program (PHP) is an intensive outpatient program of psychiatric services provided as an alternative to inpatient psychiatric care for individuals who have an acute mental illness, which includes, but is not limited to, conditions such as depression and schizophrenia. PHP services include individual psychotherapy, patient education, and group psychotherapy. These services can be furnished remotely to beneficiaries by facility staff using telecommunications technology during the PHE. PHP services furnished using telecommunications technology must include both audio and video unless the beneficiary does

not have access to video communication technology. If both audio and video technology is not possible, the service may be furnished exclusively with audio.

Teaching Physician Supervision

Generally, there are rules regarding teaching physician supervision that require the presence of the teaching physician during psychiatric services in which a resident is involved. Under the PHE, this supervision requirement may be met by observation of the service by use of a one-way mirror, video equipment, or similar device.

IV. Mental Health Services (Post-COVID-19 Pandemic)

Consolidated Appropriations Act, 2021

The U.S. House and Senate passed the Consolidated Appropriations Act, 2021 (CAA) on December 21, 2020, which was signed into law on December 27, 2020. Under this law, Medicare beneficiaries are able to receive telehealth services permanently for purposes of diagnosis, treatment, or evaluation of mental health disorders (in addition to substance use disorders, which was previously allowed) in all geographic regions of the country and locations, including the home. The law applies to most mental health services, including counseling, psychotherapy, and psychiatric evaluations. To be eligible to receive the services via telehealth, the beneficiary must have been seen in person at least once by the physician or non-physician practitioner during the six-month period prior to the telehealth service, and subsequent periods as determined by the Secretary of HHS. As written, this in-person requirement would not apply to any location that is eligible for telehealth coverage under the previous rules (e.g., a patient is receiving telehealth at an originating site, such as a hospital in a rural area). The CAA does not allow coverage for audio-only behavioral services after the end of the PHE.

Physician Fee Schedule Final Rule 2022

In the 2022 Physician Fee Schedule rulemaking CMS implemented provisions in the CAA by removing the geographic restrictions for the purpose of diagnosis, evaluation, or treatment of a mental health disorder via telehealth services after the PHE ends. As a result, mental health telehealth services can be furnished in any geographic location, including the patient's home (which includes temporary lodging such as hotels and homeless shelters as well as locations a short distance from the beneficiary's home). As required by the CAA, an in-person visit is required within the 6 months prior to the telehealth visit. In addition, CMS requires that there be subsequent in-person visit each 12 months. This requirement does not apply to the treatment of a diagnosed substance use disorder or co-occurring mental health disorder. The in-person visit requirement can be met by another physician or practitioner of the same specialty and subspecialty in the same group as the physician or practitioner who furnishes the telehealth service, if the physician or practitioner who furnishes the telehealth service is not available. CMS permits a limited exception to the subsequent 12 month in-person requirement, if the risks and

burdens associated with the in-person visit outweigh the potential benefit to the patient. The reason for the exception must be clearly documented in the patient's medical record.

CMS will allow payment for behavioral health services using audio-only technology if the patient is not capable of, or does not consent to, the use of video technology for the service. The physician or non-physician practitioner must have video capability at the time of the service.

The expansion of mental telehealth services and requirements mentioned above also apply to Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs).

V. Implications and AAMC Perspective

During the PHE, telehealth has significantly increased accessibility of behavioral health services. There has been a reduction in missed appointments in behavioral health services because telehealth expansion has made it easier for patients to receive care. The removal of Medicare's geographic and site of service limitations on behavioral telehealth services will continue to enable further expansion of the use of telehealth in the future. However, it is essential for Congress to remove the requirement for an in-person visit for telehealth mental health services in order to enable better access to these services. For these trends to continue, it will be important for behavioral health care providers at academic medical centers (AMCs) to have the appropriate equipment needed to provide telehealth services. Increasing broadband service access for rural and remote communities will also be important, particularly to address disparities and ensure access for the most vulnerable populations.

VI. Resources

- 2021 Physician Fee Schedule Final Rule
- 2022 Physician Fee Schedule Final Rule
- COVID-19 Interim Final Rules
  - Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-9912 IFC) (PDF) (10/28/20)
  - Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-3401 IFC) (PDF) (8/25/20)
  - Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-5531 IFC) (PDF) (4/30/20)
  - Medicare IFC: Revisions in Response to the COVID-19 Public Health Emergency (CMS-1744-IFC) (PDF) (3/30/20)
- CDC, Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic
- SUPPORT for Patients and Communities Act

VII. Contacts

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Index: CPT Codes Allowed via Phone Only and Traditional Telehealth (Audio and Video)

- Diagnostic Interview (90791, 90792)
- Psychotherapy (90832, 90833, 90834, 90836, 90837, 90838)
- Psychoanalysis (90845)
- Group Psychotherapy (90853)
- Family Psychotherapy (90846, 90847)
- Crisis Intervention and Interactive Complexity (90839, 90840, 90785)
- Neurobehavioral Status Exam (96116, 96121)
- Psychological Evaluation (96130, 96131)
- Neuropsychological Evaluation (96132, 96133)
- Psychological and Neuropsychological Test Administration and Scoring (96136, 96137, 96138, 96139)
- Health Behavior Assessment (96156)
- Health Behavior Intervention, Individual (96158, 96159)
- Health Behavior Intervention, Group (96164, 96165)
- Health Behavior Intervention, Family with patient (96167, 96178)
- Behavioral Screening (96127)
- CPT Codes Allowed via Traditional Telehealth Only
- Developmental Screening and Testing (96110, 96112, 96113)
- Adaptive Behavior Assessment (97151, 97152, 0362T)
- Adaptive Behavior Treatment (97153, 97154, 97155, 97156, 97157, 97158, 0373T)
- CPT Codes Added to the Telehealth List but as Non-Covered Services (not reimbursable in Medicare)
- Psychophysiological therapy (90875)
- Health Behavior Intervention, Family without patient (96170, 96171)

Updated: 6/21/22