AAMC Regulatory Resource

MEDICARE VIRTUAL RESIDENT SUPERVISION REQUIREMENTS

KEY TAKEAWAYS
• During the COVID-19 Public Health Emergency (PHE), the Centers for Medicare & Medicaid Services (CMS) made changes to the Medicare billing requirements that enabled payment to teaching physicians when supervising residents virtually for both in- person and telehealth services, making it easier for individuals to receive care. • Payment for teaching physicians virtually supervising residents rendering telehealth and in-person services in rural areas is permanently allowed. • Payment for teaching physicians virtually supervising residents rendering **telehealth** services is set to expire December 31, 2024 for services provided in urban areas. In the 2025 proposed physician fee schedule rule, CMS proposed to extend virtual supervision of telehealth services for an additional year until December 31, 2025. • Payment for teaching physicians virtually supervising residents providing services **in-person** expired December 31, 2023, for services provided in urban areas. • The AAMC recommends CMS allow virtual supervision of residents for both in-person and telehealth services in all residency training locations permanently for certain services.

BACKGROUND

The supervisory relationship between teaching physicians and their residents is essential to developing quality physicians who can autonomously and effectively treat patients. Medicare reimburses teaching physicians for services rendered by residents so long as the teaching physician provides the required level of supervision of the resident. In recent years, CMS has modified Medicare physician billing policies regarding whether supervision is required in-person or may be allowed virtually.

Before the COVID-19 PHE

Prior to the COVID-19 PHE, as the general rule (with some exceptions), if a resident participates in a service rendered in a teaching setting, payment is made only if a teaching physician is physically present during the key or critical portion of any service or procedure. To satisfy the physical presence requirement, the teaching physician must be in the same room (or partitioned or curtained area, if the room is subdivided to accommodate multiple patients) as the patient and/or performs a face-to-face service. CMS also allowed payment for the interpretation of diagnostic radiology and other diagnostic tests if the interpretation is performed or reviewed by a physician other than a resident. And the teaching physician could also receive payment for psychiatric services when supervising the resident by use of a one-way-mirror, video equipment or similar device.

Primary Care Exception Before the COVID-19 PHE

Although residents are typically supervised in-person during the critical or key portions of the service by a teaching physician, the “primary care exception” allowed residents, after completing six months of residency, to render office/outpatient evaluation and management (E/M) visit services of lower and mid-level complexity (visit codes 99201, 99202, 99203, 99211, 99212, 99213) and annual wellness visits (HCPCS codes G0402, G0438, G0439) without the presence of a teaching physician. The teaching physician must be immediately available onsite to provide

the necessary direction and can only supervise four residents at a time. Under this exception, the teaching physician must also review the patient's medical history, physical examination, diagnosis, and record of tests and therapies during or immediately after each visit. The teaching physician must have no other responsibilities at the time the residents are being supervised, assume management responsibility for the patients seen by the residents, and ensure that the services rendered are appropriate.

During the COVID-19 PHE

To maintain and promote quality supervision within the bounds of public health guidelines for social distancing, Medicare permitted certain exceptions to supervision requirements that allowed teaching physicians to engage in virtual supervision. Some of these exceptions were on an interim basis throughout the COVID-19 PHE, while others have been permanently adopted through CMS rulemaking.

In-person Visit Exception: CMS allowed teaching physicians to supervise residents using audio/video real-time communications technology when the resident is rendering services in person with the patient. This policy generally required real-time observation (not mere availability) by the teaching physician through audio/video technology during the key or critical part of the service. Audio-only technology is not included in this modified requirement.

Telehealth Visit Exception: Medicare made payment to teaching physicians for services when a resident rendered telehealth services to beneficiaries while the teaching physician was present using audio/video real time communications technology. The telehealth list can be located on the CMS website.

Primary Care Exception: The primary care exception was expanded to all levels of office and outpatient E/M codes including codes of lower and mid-level complexity, and higher levels of complexity. In addition, it was expanded to include telephone evaluation and management services (CPT 99441-99443), transitional care management services (CPT 99495 and 99496), online digital evaluation and management service for an established patient (CPT 99422-99423), interprofessional telephone/internet/electronic health record referral services (CPT 99452), brief communication technology-based service (HCPCS G2012) and remote evaluation of recorded video and/or images submitted by an established patient (HCPCS G2010). Audio-only technology was not included in this exception. CMS also allowed payment to teaching physicians for residents' services rendered via telehealth under the primary care exception.

Diagnostic Exception: Payment could be made to the teaching physician when residents interpret diagnostic radiology and other diagnostic tests, provided that the teaching physician is present through audio/video real-time communications technology at the time of the interpretation. A physician other than the resident must still review the resident's interpretation and the medical records must document the extent of the teaching physician's participation in the interpretation or review.

Exclusions to COVID-19 PHE Exceptions: Notably, CMS excluded certain services from the virtual supervision policy that it believes require a level of oversight that a teaching physician could not meet virtually, including surgical, high risk, interventional, endoscopic, or other complex procedures and anesthesia services.

Current Policy

CMS permanently finalized the COVID-19 PHE flexibility that allowed payment for virtual supervision of residents for both in-person and telehealth services to expand access to care in

rural areas when the resident and patient are located in a rural training area. The medical record must include documentation for how and when the teaching physician was present during the key or critical portion of the services or in the case of the primary care exception, immediately after the service, when the service is virtually supervised by the teaching physician. CMS excluded certain services from the virtual supervision policy that it believes require a level of oversight that a teaching physician could not meet virtually, including surgical, high risk, interventional, endoscopic, or other complex procedures and anesthesia services. Teaching physicians should always use their professional judgment to identify any additional instances in which virtual supervision is not appropriate.

Specifically, CMS allows teaching physicians to bill for telehealth services when a resident located in a rural training site renders services to a beneficiary who is in a separate location within the same rural area or different rural area as the residency training site. In these cases, the teaching physician may be present, through interactive, audio/video real-time communications technology (excluding audio-only), in a third location, either within the same rural training site as the resident or outside of that rural training site.

In the 2024 Medicare Physician Fee Schedule, CMS allowed virtual supervision of residents rendering **telehealth services** in urban areas through December 31, 2024. CMS did not allow virtual supervision of **in-person services** rendered by residents in urban areas. As a result, payment for services when a resident is virtually supervised in urban areas is not allowed after December 31, 2023. In the 2025 proposed physician fee schedule rule, CMS proposed to continue to allow virtual supervision of residents rendering telehealth services through December 31, 2025.

With the end of the COVID-19 PHE on May 11, 2023, the primary care exception is once again limited to services of lower and mid-level complexity (CPT codes 99201- 99203, 99211-99213 and HCPCS G0402, G0438, G0439). However, services under the primary care exception were permanently expanded to include online digital evaluation and management services (CPT 99421–99423), interprofessional telephone/internet/electronic health record consultation (CPT 99452), remote evaluation of recorded video and/or images submitted by an established patient (HCPCS G2010) and brief communication technology-based service (HCPCS G2012). In the 2025 proposed physician fee schedule rule CMS requests information to help it consider whether and how best to expand the array of services included under the primary care exception in future rulemaking.

CMS finalized the COVID-19 PHE flexibility that allowed payment to teaching physicians when residents interpret diagnostic radiology and other diagnostic tests provided that the teaching physician is present through audio/video real-time at the time of the interpretation. A physician other than the resident must still review the resident’s interpretation and the medical records must document the extent of the teaching physician’s participation in the interpretation or review.

Below are scenarios describing virtual supervision of residents:

In a rural area, the resident is providing services to a patient in-person, and the teaching physician is located at home and supervising virtually. (Permanent policy change to allow coverage and payment)

In an urban area, the resident is at the hospital providing telehealth services to a patient who is at their home, and the teaching physician is located at home and supervising virtually. (Expires December 31, 2024)

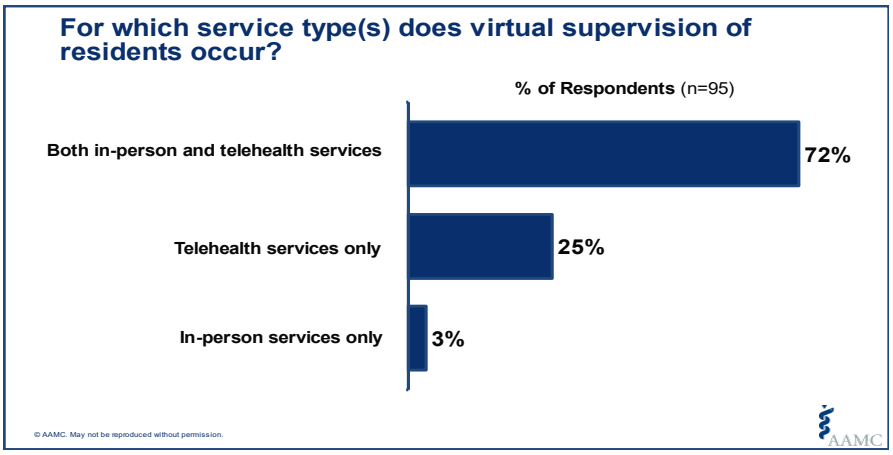
Teaching physician and resident are co-located in the same room at the hospital providing telehealth services to a patient at home or 3rd location in an urban area. (Expires December 31, 2024)

Resident is in-person with the patient providing services at the hospital in an urban area. The teaching physician virtually supervises the resident via video/audio technology from home. (**No longer permitted:** expired December 31. 2023)

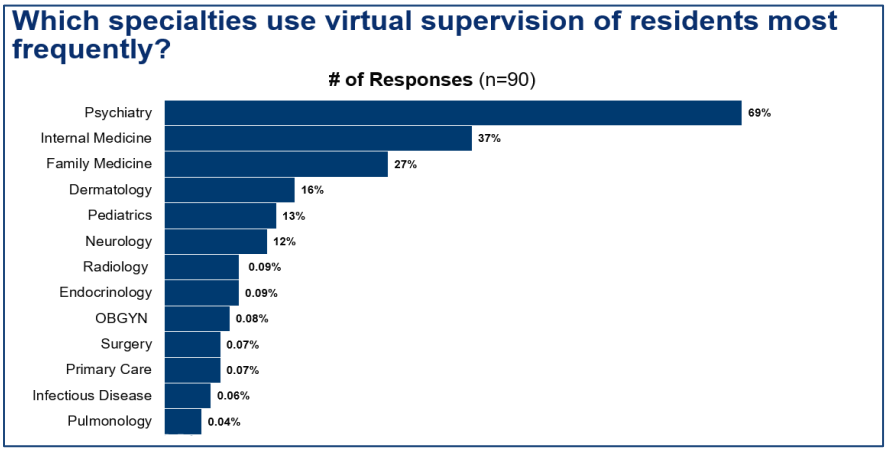
VIRTUAL SUPERVISION OF RESIDENTS			
	Pre-COVID PHE	**During COVID-19 PHE**	**Current Policy**
Virtual Supervision of Residents in **urban areas** for **in-person services**	Not permitted	CMS allowed teaching physicians to supervise residents using audio/video real-time communications technology.	Not permitted after December 31, 2023 in urban areas.
Virtual Supervision of Residents in **urban areas** for **telehealth services**	Not permitted	CMS allowed teaching physicians to supervise residents using audio/video real-time communications technology.	CMS allows teaching physicians to supervise residents using audio/video real-time communications technology through December 31, 2024 in urban areas.
Virtual Supervision of Residents in **rural areas** for **in-person visits**	Not permitted	CMS allowed teaching physicians to supervise residents using audio/video real-time communications technology.	CMS permanently finalized the flexibility that allowed payment for virtual supervision of residents for in-person services in rural areas.
Virtual Supervision of Residents in **rural areas** for **telehealth visits**	Not permitted	CMS allowed teaching physicians to virtually supervise residents rendering telehealth services using audio/video real-time communications technology	CMS permanently finalized the flexibility that allowed payment for virtual supervision of residents rendering telehealth services using audio/video real-time communications technology in rural areas.
Primary Care Exception (PCE)	The PCE allowed residents to render E/M visit codes of lower and mid-level complexity without the presence of a teaching physician. The teaching physician must be immediately available onsite to provide the necessary direction and can only supervise four residents at a time.	The PCE was temporarily expanded to all levels of E/M services including codes of lower, mid-level, and higher levels of complexity. The temporary expansion included telephone E/M services, transitional care management services, online digital E/M service for an established patient, interprofessional telephone/internet/electronic health record referral services, brief communication technology-based services and remote evaluation services of recorded video and/or images submitted by an established patient.	The PCE is once again limited to E/M services of lower and mid-level complexity. However, PCE was permanently expanded to include online digital E/M services, interprofessional telephone/internet/electronic health record consultation, remote evaluation services of recorded video and/or images submitted by an established patient and brief communication technology-based service.
Radiology	CMS allowed payment for the interpretation of diagnostic radiology and other diagnostic tests if the interpretation is performed or reviewed by a physician other than the resident.	CMS allowed payment for the interpretation of diagnostic radiology and other diagnostic tests if the interpretation is performed or reviewed by the teaching physician. For all teaching settings, CMS also allowed payment if the interpretation is performed by a resident when the teaching physician is present through audio/video real-time communications technology. The medical records must document the extent of the teaching physician's participation in the interpretation or review of the diagnostic radiology or diagnostic test.	CMS did not extend the COVID-19 era flexibility for virtual supervision of diagnostic testing interpretations by residents in urban areas. In rural areas the COVID-19 flexibilities were made permanent.

DATA ANAYLSIS

A survey conducted by the AAMC, from June 13, 2023, to July 5, 2023, highlights that 72% of respondents supervised residents virtually for both in-person and telehealth services. [1] Given the CMS flexibilities that allowed virtual supervision, teaching physicians, particularly in certain specialties, have virtually supervised residents to enable better access to care and training opportunities for residents.



The chart below shows the top specialties that virtually supervised residents as reported by members.[2]



AAMC RECOMMENDATION

The AAMC appreciates that CMS finalized policy to permanently allow for the virtual supervision of residents in rural areas for both telehealth and in-person services. We also appreciate the CMS's extension of virtual supervision of residents for telehealth services in urban areas through December 31, 2024. However, we recommend that CMS allow virtual supervision of

[1] Based on 90 responses to the July 2023 AAMC Request for Information on Virtual Supervision question regarding specialty type.
[2] *Id.*

residents for both in-person and telehealth services in all residency training locations permanently for certain services. At a minimum, CMS should allow virtual supervision of residents for both in-person and telehealth services in underserved areas (which could include urban areas), as well as in rural locations. Allowing virtual supervision increases access to care, enables training opportunities for residents, and is safe and effective.

The AAMC supports the current exclusion from the virtual supervision policy of surgical, high risk, interventional and other complex procedures, endoscopies, and anesthesia services. For these services, we believe that the requirement for the physical presence of the teaching physician for the entire procedure or the key portion of the service with immediate availability throughout the procedure, is necessary for patient safety given the risks associated with these services.

DISCUSSION

Residents have been virtually supervised safely and effectively during the PHE, for both in-person and telehealth services, increasing access to care. In both cases, the teaching physician is present virtually during key and critical portions of the service through interactive audio/video real time communications technology, and both the attending physician and resident have access to the electronic health record. Teaching physicians render personal and identifiable physician services and exercise full personal control over the management of the care for which payment is sought. CMS requires that the documentation in the patient's medical record must clearly reflect how and when the teaching physician was present during the key and critical portion of the service, along with a notation describing the specific portions of the service for which the teaching physician was virtually present. After the visit, if medically necessary, the teaching physician continues to engage with the patient through phone calls, messages, video updates, study reviews, and collaboration with other providers. It is important that institutions impacted by changes in payment for virtual supervision and telehealth understand and prepare for these changes as they occur.

RESOURCES

Statutory Authority 42 U.S.C. 1302

AAMC Telehealth Competencies Across the Learning Continuum (Mar. 2021) free for download from the AAMC store

CMS CY 2021 Physician Fee Schedule (December 28, 2020) with virtual supervision of residents discussed within Vol. 85 of the Federal Register beginning at 84577 (Dec. 28, 2020)

CMS Claims Processing Manual Transmittal 1128 with the primary care exception discussed beginning p. 23 of the manual (Mar. 4, 2022)

CMS CY 2024 Physician Fee Schedule (November 16, 2023) with virtual supervision of Residents discussed within Vol. 88 of the Federal Register beginning at 78878 (Nov. 16, 2023)

CMS CY 2025 Proposed Physician Fee Schedule Rule (July 31, 2024).

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