



CMS Issues Rule Outlining Additional Regulatory Changes in Response to COVID-19

On April 30, the Centers for Medicare and Medicaid Services (CMS) issued another round of sweeping regulatory waivers and rule changes to help address the COVID-19 crisis. The [Interim Final Rule](#) aims to expand the healthcare workforce, address hospital capacity, increase access to telehealth, expand testing, and put patients over paperwork. The majority of the provisions of the rule are retroactively effective for services furnished as of March 1, 2020 and remain in effect through the duration of the government declared public health emergency. ASH summarized the provisions of interest to hematology practice, as follows:

Payment for Audio-Only Telephone Evaluation and Management Services

CMS is establishing new RVUs for the telephone - only evaluation and management (E/M) services (CPT codes 99441-99443) in order to align to the comparable office/outpatient E/M codes, based on the time requirements for the telephone codes and the times assumed for level 2, 3, and 4 office/outpatient E/M codes. Specifically, CMS is crosswalking the physician work RVUs and practice expense inputs for CPT codes 99212, 99213, and 99214 to the telephone only CPT codes 99441, 99442, and 99443 respectively. CMS finalized, on an interim basis and for the duration of the COVID-19 crisis, the following work RVUs and national average payment rates:

- 0.48 RVUs for CPT code 99441 - \$46 (5-10 minutes of medical discussion)
- 0.97 RVUs for CPT code 99442 - \$76 (11-20 minutes of medical discussion)
- 1.50 RVUs for CPT code 99443 - \$110 (21-30 minutes of medical discussion)

Time Used for Level Selection for Office/Outpatient Evaluation and Management Services Furnished Via Medicare Telehealth

- CMS previously revised policy to specify that the office/outpatient E/M level selection for office/outpatient E/M services when furnished via telehealth can be based on medical decision making (MDM) or time, with time defined as all of the time associated with the E/M on the day of the encounter.
- CMS expects doctors to choose the level of E/M code based on the times included in the CPT code descriptor.

Furnishing Hospital Outpatient Services in Temporary Expansion Locations of a Hospital or a Community Mental Health Center (including the Patient's Home)

- CMS has waived the requirements associated with becoming a provider-based department (PBD) of a hospital as well as certain requirements under the Medicare conditions of participation to facilitate the availability of temporary expansion locations.
- Because of these waivers, during the COVID-19 crisis, temporary expansion locations, including beneficiaries' homes, can become PBDs of hospitals and outpatient hospital services can be furnished to beneficiaries registered as outpatients in these provider-based locations.
- Hospitals can bill and be reimbursed under the existing rules for PBDs (payment may be at the hospital's HOPPS rate or the reduced MPFS rate) so long as all other requirements are

met, including the hospital conditions of participation, to the extent not waived, during the COVID-19 crisis.

- Hospitals that want to relocate provider-based departments to patient homes or other locations must inform their CMS Regional HHS Office.

Additional Flexibility under the Teaching Physician Regulations

- On an interim basis for the duration of the COVID-19 crisis, the teaching physician may not only direct the care furnished by residents, but also review the services provided with the resident, during or immediately after the visit, remotely through virtual means via audio/video real time communications technology.

Scope of Practice

- CMS is allowing non-physician practitioners – Nurse Practitioners, Clinical Nurse Specialists, Physician Assistants, and Clinical Nurse Midwives – subject to their state scope of practice laws to order, furnish, and supervise diagnostic tests during the declared public health emergency period.