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March 18, 2020

COVID-19 Related Reimbursement Developments

We are deeply grateful for all that you and your colleagues are doing on the front lines of the COVID-19 crisis. In an effort to help you synthesize the large volume of information during these hectic and frightening times, we have prepared the following summary of the recent federal funding and reimbursement developments associated with the COVID-19 outbreak. We have included information about action taken by HHS and CMS, as well as Congress. As appropriate, we have furnished hyperlinks to source documents describing the developments. Please do not hesitate to reach out to us if you need anything during these trying times.

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- [CMS has waived many payment and coverage requirements for hospitals to facilitate flexibility in patient care.](#)
The more notable requirements waived by CMS include:
 - Requirement that acute care inpatients cannot receive care in distinct part units. Hospital should still bill IPPS and note in the records that the patient is being treated in a distinct part unit due to the disaster.
 - Requirement that patients admitted to psychiatric and rehab prospective payment systems need to be located in beds in the distinct parts of the hospital. These patients can be treated in the IPPS areas of the hospital but the hospital should continue to bill the appropriate payment system (IPF or IRF) with a note in the record.
 - LTCHs are not required to count stays of less than 25 days in their average length of stay when the patient is admitted/discharged due to an emergency.
 - 3-day hospitalization requirement before transfer to a SNF has been waived.
 - 25 bed limit and 96 hour stay limit for inpatients have both been waived for CAHs.
 - The OIG has released a [policy statement](#) that it will not enforce sanctions against providers reducing or waiving cost sharing for COVID-19 treatment.
- [Section 1135 waivers of certain conditions of participation.](#)
 - As a result of a national emergency declaration, the agency has exercised its authority to waive various requirements on hospitals providing Medicare, Medicaid or CHIP funded services, including certain conditions of participation, licensure, EMTALA and HIPAA requirements under particular circumstances.
 - Section 1135 also allows for State Medicaid agencies to petition for more specific waivers. For example, Florida has received a [Section 1135 waiver](#) that among other things, waives the requirement for prior authorization and also allows for hospitals to provide services in alternative, unlicensed locations when the main location is unavailable.
 - Certain HIPAA privacy requirements have also been waived, including the requirements to obtain a patient's agreement to speak with family members or friends involved in the patient's care, the requirement to honor a

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request to opt out of the facility directory, the requirement to distribute a notice of privacy practices, the patient's right to request privacy restrictions and the patient's right to request confidential communications.

- [New nationwide HCPCS codes for COVID-19 testing](#)
 - U0001 can be used to bill for tests and track new cases of the virus. This code is used specifically for CDC testing laboratories
 - U0002 allows laboratories to bill for non-CDC laboratory tests (including those developed in-house) for when submitting claims to Medicare or health insurers.
 - The Medicare claims-processing systems will be able to accept these codes starting on April 1 for dates of service on or after February 4.
- [Expansion of Medicare reimbursement for telehealth services](#)
 - CMS has temporarily waived the geographic requirements. Normally, Medicare telehealth is only available in rural areas, and the patient must travel to a facility (e.g., a hospital or physician office). Under the waiver, these requirements (known as "originating site" requirements) are waived, permitting patients to receive telehealth in their homes. Though the law requires providers to have a prior relationship with a patient to take advantage of the waiver, CMS has announced that it will not audit this requirement for purposes of coverage.
 - These services are paid at the same rate as in-person visits.
 - The agency is also providing flexibility to providers to reduce or waive the deductibles and coinsurance amounts for Medicare patients receiving telehealth services (normally, reducing or waiving cost-sharing would implicate federal fraud and abuse laws).
- Congressional activity on federal funding and payment for COVID-19 care
 - On March 6, [an emergency funding bill](#) was enacted to combat COVID-19. This law added nearly \$500 million to support the expansion of telehealth services for Medicare beneficiaries.
 - A [second funding bill](#) was passed by the House last Friday, by the Senate just today, and is expected to be signed into law by the President shortly. When enacted, this bill will require private health plans, Medicare, Medicaid and Medicare Advantage plans to cover the costs associated with COVID-19 testing at no cost to the patient. This bill will also increase the state Medicaid allotments.
 - There is discussion in Senate of a [third funding bill](#) that would provide additional funding for hospitals, but this bill has not yet been released.
 - In a [joint letter](#) sent this week, AHA, AMA and ANA urged that Congress provide hospitals \$1 billion in funding to fight COVID-19.

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- Hospital groups have also [urged Congress](#) to suspend the 2% Medicare sequestration reductions during this period.
- Relatedly, the National Association of ACO's has asked CMS to not include spending related to COVID-19 treatment in the calculation of their Medicare expenditures, in addition to requesting an extension of the deadlines for submitting quality reporting data.
- Some hospital clients have contacted us regarding concerns about working capital and access to lines of credit in the current economy, and this may play into the requests for Congressional assistance.

If you have any questions, please do not hesitate to contact [Stephanie Webster](#) or [Alex Talley](#), whose contact information is listed below.

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