

# **TELEHEALTH BILLING AND CODING DURING THE SARS-COVID-2 PANDEMIC**

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Scleral Lens Society Telehealth Webinar

# Conflict Disclaimer

- Consultant
  - Percept
  - Novartis
  - GPLI
- FDA Medical Devices Advisory Committee—Ophthalmic Device Panel, Consumer Representative
- Expert Testimony
- Contributing Editor:  
*Contact Lens Spectrum*
- No Proprietary Interest in Any Subjects Discussed
- FDA “Off-Label” Uses Will Not Be Discussed

# Course Description

- This information is provided to improve the attendee's understanding of how to code and bill for telehealth services under the currently in-force CMS Interim Final Rule, entitled, **"Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency."** (42 CFR Parts 400, 405, 409, 410, 412, 414, 415, 417, 418, 421, 422, 423, 425, 440, 482, and 510 [CMS-1744-IFC] {RIN 0938-AU31})
- Also covered in this presentation is the 2019 CMS Final Rule, entitled, **"Modernizing Medicare Physician Payment by Recognizing Communication Technology-Based Services"** (CMS 1693-p)
- Finally, we cover the HIPAA rules regarding privacy, entitled, **"HIPAA Administrative Simplification Regulations"** (45 CFR Parts 160, 162, and 164)

# Introduction

- To know where we are, we have to know where we have been
- In January of 2013, The HHS Office of Civil Rights promulgated a Final Rule for HIPAA and Telemedicine/Telehealth
- In March of 2019, HHS, through the AMA CPT® Edit Committee and through CMS Final Rule making, created a series of codes for use in telemedicine/telehealth and the rules for their use
- In April of 2020, HHS promulgated rules to modify through waiver the above mentioned Rules to do the following:
  - Make most telehealth services covered services under Medicare and Medicaid
  - Promulgate fee payment schedules to make telehealth on par with face-to-face
  - Waive the privacy security rules for telehealth equipment and programs required under HIPAA
  - Waive the established patient limitation on telehealth

# The CPT/HCPCS® Codes for Telehealth: Virtual Check-In's

- **G2012—Brief communication technology-based virtual check-in**
  - Must be conducted by a physician or other qualified health professional who can report E/M service codes
  - Can only be used on an established patient who must give documented consent
  - Place of Service is “02” (Telemedicine)
  - It cannot originate from a related E/M visit provided in the previous seven days or result in an E/M service or procedure in the subsequent 24 hrs. or next available appointment
  - The time duration of visit is 5—10 minutes
  - The visit must not be not face-to-face
  - All of the above must be documented in the patient record

# The CPT/HCPCS® Codes for Telehealth: Telephone E/M Services

- **99441—99443**—Telephone evaluation and management service provided by a physician to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment
  - **99441**—Established patient, physician or qualified provider; new complaint; brief history; 5—10 minutes; treatment plan initiated and requires no office visit; all documented and consented to
  - **99442**—Established patient; physician or qualified provider; new complaint; brief history; 11—20 minutes, treatment plan initiated and requires no office visit; all documented and consented to
  - **99443**—Established patient; physician or qualified provider; new complaint; moderate history; 21—30 minutes; renew or initiate a treatment plan and requires no office visit; all documented and consented to

# The CPT/HCPCS® Codes for Telehealth: On-Line Digital Services

- **99421**—Online digital evaluation and management service, for an established patient, for up to 7 days, cumulative time during the 7 days; 5–10 minutes
- **99422**—Online digital evaluation and management service, for an established patient, for up to 7 days, cumulative time during the 7 days; 11—20 minutes
- **99423**—Online digital evaluation and management service, for an established patient, for up to 7 days, cumulative time during the 7 days; 21 or more minutes
- New for 2020
- Covered services during the current pandemic emergency declaration

# The CPT/HCPCS® Codes for Telehealth: Telemedicine Exams: Non-Physicians

- 98970—Qualified non-physician health care professional online digital evaluation and management service, for an established patient, for up to seven days, cumulative time during the 7 days; 5—10 minutes
- 98971: 11—20 minutes
- 98972: 20 or more minutes
- Non-covered services, even during the current pandemic emergency declaration



# The CPT/HCPCS® Codes for Telehealth: Telemedicine Exams: Outpatient E/M Codes and the -95 Modifier

- Using the Outpatient Evaluation and Management Codes (99201—99205 for new patients and 99212—99215 for established patients) using the standard E/M Level Choice Rubric in the E/M Preamble is also an easy way to go that is less confusing.
- -95 Modifier (Synchronous telemedicine service rendered via real-time interactive audio and video telecommunications systems) should be appended to the selected E/M Code. During the pandemic, the use of the -95 modifier is optional, but I highly recommend using it anyway to protect you during an audit
- Do not use the Outpatient E/M codes when doing peer-to-peer telehealth
- Since the 99211 code (Outpatient E/M, Level 1, Established) is for a staff member only, and cannot be billed with the -95 modifier because only a provider can do telehealth. Staff members must use the non-covered codes (98970—98972)

# Coronavirus Preparedness and Response Supplemental Appropriations Act

- 1135 Waiver—A declaration of emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) makes the following exemptions and waivers for the duration of the 90 day pandemic emergency (through June 18, 2020):
  - Place of Service for all telehealth service is “11” (Office)
  - HIPAA compliant platform requirement is waived as HHS OCR will not penalize as long as the platform is not used in a public-facing manner. Allowed platforms include Apple FaceTime®, Facebook Messenger **text** and video, WhatsApp™, Skype®, Jabber, and iMessenger EHR®
  - Not allowed, even during the waiver, Facebook Live, Twitch, TikTok
  - Reimbursement rates will be the same as office visits (The money for this expanded access to care will come from FEMA under the Stafford Act through the President’s Disaster Relief Fund)
  - The General Ophthalmological Codes do not qualify under the waiver; use E/M and HCPCS codes only
  - New patients can be seen under these regimes as HHS will not audit for new or established

# Conclusions and Takeaways

- There is a set regime for how telehealth gets coded and billed that will once again go into force when the pandemic waivers expire
- The waivers only apply to Medicare and Medicaid, check with your private payors for coverage
- In all cases, document that the visit is synchronous (real-time and not reviewed later), not face-to-face (notate the communication platform), consented to, patient initiated (except for the check-in visit), regards a new complaint (and is not related to a complaint or visit in the previous seven days), the encounter time, the treatment plan, and that the treatment plan did not result in a visit in the proceeding 24 hours or at the next available appointment, or during a covered post-operative period
- The telehealth visit must meet the current standard of care for a patient as though they were seen in office

# Conclusions and Takeaways

- To improve access during shelter-in-place orders, the new vs established waiver allows people to be seen outside the limited boundaries of these codes' original remits
- The POS change is an expediency. Ensure that POS is "11," or the claim will not be paid
- Do not document a finding that is impossible to ascertain in a telehealth visit—they will audit for these findings
- The AOA malpractice carrier does not exclude telehealth visits, but you should check with your carrier to ensure the care you are delivering is covered
- Telehealth is an important method for keeping in touch with your patients during the pandemic. The Doctrine of Abandonment is not abrogated during the pandemic. You are responsible for providing care to your existing patients. If telehealth is not for you, refer your patients to get care. **DON'T JUST STOP ANSWERING YOUR OFFICE PHONE!!**

# Resources

- <https://www.aoa.org/coronavirus>
- <https://www.aaopt.org/my-covid-hub>
- <https://www.aao.org/coronavirus>
- <https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html>
- <https://coronavirus.jhu.edu/>
- <https://www.cidrap.umn.edu/covid-19>

# THANK YOU!

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