

Morgan Lewis

FAST BREAK: **PHYSICIAN FEE SCHEDULE** **UPDATE**

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August 22, 2019



Agenda

- Overall Themes for the 2020 Proposed Rule
- Significant Proposals
 - Implementation Delay and Ongoing Refinement to E/M
 - Addition of New Benefits and Payment for Opioid Use Disorder Treatment
 - Changes to Transitional and Chronic Care Management Services
 - Reducing Administrative Burden on Providers
 - Medical Record Documentation Requirements
 - Physician Assistant (PA) Supervision Requirements
 - Changes to the Open Payments Program
- Specialty Impacts
- Trends for Future Rules

Overall Themes for the 2020 Proposed Rule

- Slight Conversion Factor Increase Maintains Consistency with Previous Years
- Further Refinement to Evaluation and Management (E/M) Coding and Payment
- Implementation of Policies in Response to the Opioid Crisis
- Streamlining Certain Administrative Requirements for Providers
- Growing Emphasis on Bundled Payments

Significant Proposals – E/M Changes

- Evaluation and Management (E/M) visits comprise approximately 40% of allowed charges for all physician fee schedule services.
- Office/outpatient E/M visits account for 20% of allowed charges.
- CMS finalized a number of changes to E/M Services in the CY 2019 rule
 - Paying a single/blended rate for office/outpatient visit levels 2-4
 - Permitting documentation for level 2-5 visits using either medical decision making (MDM) or time
 - Only requiring the minimum documentation standard associated with level 2 office/outpatient E/M visits for level 2-4 E/M visits
 - Implementation of add-on G codes that describe additional resources in certain types of office/outpatient E/M visits
 - Adoption of a new “extended visit” G-code

Significant Proposals – E/M Changes (continued)

- Changes coming from the AMA RUC and CPT Editorial Panels lead to some pretty big policy reversals in this year's rule.
- Proposals in this year's rule (effective for CY 2021)
 - Abandoning the blended payment rate for level 2-4 visits (including the level 2 documentation requirement baseline) finalized in the CY 2019 Medicare Physician Fee Schedule Rule
 - Deletion of Level 1 office/outpatient visit, new patient
 - 4 levels of coding for office/outpatient visits for new patients, retain 5 levels of coding for office/outpatient visits for established patients

Significant Proposals – E/M Changes (continued)

- Additional CY 2021 E/M Proposals
 - Revised code definitions for times and medical decision making processes across all codes, including only requiring performance of history and exam as medically appropriate
 - Permitting practitioners to choose the E/M visit level based on either MDM or time
 - Adoption of revised valuations for E/M levels
 - Work RVU increases for 99212 with Work RVU decreases for 99214
 - Consolidating the add-on G codes for primary care and non-procedural specialty care into a single code
 - No changes to global surgical packages despite AMA recommendations

Significant Proposals – Opioid Use Disorder Treatment

- Section 2005 of the SUPPORT Act established a new Medicare Part B benefit for Opioid Use Disorder (OUD) Treatment Services
- Coverage for Medication-Assisted Treatment (MAT) furnished by Opioid Treatment Programs (OTPs)
- Bundled Episode of Care for Management and Counseling Treatment for Substance Use Disorders
 - Bundled episodes of care would include overall management, care coordination, individual and group psychotherapy, and substance use counseling
 - New G codes for bundled care episodes for OUD provided via telehealth

Significant Proposals – Care Management Services

- Increased Payment for Transitional Care Management (TCM) Services provided to beneficiaries following discharge from an inpatient stay or certain outpatient stays.
- TCM Codes could also be billed concurrently with codes that were previously prohibited (e.g., Prolonged Services, Home and Outpatient INR Monitoring, ESRD Services for Adult patients, Complex CCM, Care Plan Oversight)
- Additional G-codes for Certain Chronic Care Management (CCM) Services
 - CMS intends for these codes to allow clinicians to bill incrementally to reflect additional time and resources required in certain cases and better distinguish complexity of illness as measured by time.

Significant Proposals – Reducing Administrative Burden on Providers

- Relaxing Physician Supervision Requirements for Physician Assistants (PAs)
 - PA Supervision requirements would be those required by state law and scope of practice rules for PAs in the state where the services are furnished.
 - In the absence of State law governing physician supervision of PA services, the physician supervision required by Medicare for PA services would be determined by the documentation in the medical record of the PA's approach to working with physicians in furnishing their services.
- Review and Verification of Medical Record Documentation
 - Would permit physicians, physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse-midwives could review and verify (sign and date), rather than re-documenting notes made in the medical record by other physicians, residents, nurses, students, or other members of the medical team.

Significant Proposals – Changes to the Open Payments Program

- Expanding the Definition of “Covered Recipients” Required by the SUPPORT ACT
 - Implementing the requirement under the SUPPORT Act to expand the definition of “covered recipients” to include physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse midwives.
- Consolidating two separate categories for continuing medical education programs into a single “medical education program” category to streamline reporting rather than maintain an accredited/certified programs and unaccredited/non-certified programs category
- Adding 3 new payment categories:
 - Debt forgiveness
 - Long-term medical supply or device loans
 - Company Acquisitions
- Standardize Reporting between Drugs and Devices
 - Manufacturers are required to submit names and national drug codes for payments or transfers of value related to specific drugs and biologicals, but there is no similar reporting for medical devices.
 - CMS is proposing to now require manufacturers to report device identifiers.

Specialty Impacts

- In any budget neutral payment system, there are winners and there are losers...
- CY 2020 Estimated Impact on Total Allowed Charges by Specialty
 - Clinical Psychologists and Clinical Social Workers +3%
 - Ophthalmology (-4%), Optometry (-2%), Interventional Radiology (-2%), Vascular Surgery (-2%)
 - Changes largely attributable to revaluation of individual procedures by AMA RUC and potentially misvalued code refinements.
- Estimated Specialty Level Impacts of Proposed E/M Payment & Coding Policy Changes if Implemented in CY 2021
 - Endocrinology (+16%), Rheumatology (+15%), Family Practice (+12%), Hematology/Oncology (+12%), Urology (+8%), General Practice (+8%), Neurology (8%), Interventional Pain Management (+8%), Allergy/Immunology (+7%)
 - Ophthalmology (-10%), Radiology (-8%), Cardiac Surgery (-8%), Pathology (-8%)
 - Why the disparity?
 - Specialties with higher level established patient visits see significant increases.
 - Specialties with lower numbers of office/outpatient E/M visits see significant decreases.

Trends for Future Rules

- Fee-For-Service vs. Alternative Payment Models vs. Medicare Advantage
- Increased Focus on Bundled Payments
- Greater Role of Digital Health (Telehealth and Remote Patient Monitoring)
- Care Management
- Ongoing Efforts to Reduce Administrative Burden on Practitioners (Patients Over Paperwork Initiative)

Thanks!



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Eric Knickrehm focuses his practice on healthcare transactional matters as well as regulatory counseling and compliance. He advises private equity funds, practice management companies, physician group practices, healthcare trade associations, pharmacies, and post-acute care providers on a wide variety of healthcare regulatory issues.

Join us next month!

Please join us for next month's webinar!

Fast Break: Substance Abuse Treatment Centers

Featuring Lauren Groebe and Jake Harper

Thursday September 26, 3:00 pm EST