

Morgan Lewis

FAST BREAK: **CMS TELEHEALTH AND RPM UPDATES**

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TODAY'S PRESENTERS



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CMS Telehealth and RPM Updates

Topics to be discussed today include



**Overview of CMS's
Telehealth and RPM
Approach**



**Details of the CY 2022
Medicare PFS Proposed
Rule**



**Stakeholder
Perspectives**



**What's Next for
Telehealth and RPM**

Overview of CMS Telehealth and RPM Issues

After frenetic activity in March and April 2020, CMS rulemaking regarding telehealth quieted down

- Medicare expansion for telehealth services arose quickly
- Removal of originating site and geographic area restrictions
- Expansion to include both new and established patients
- Expansion of practice modalities, including audio-only communications
- Expansion of telehealth code list

In Fall 2020, expansive rules on remote patient monitoring (RPM) services

- While CMS can only work within boundaries of existing law, push for expansion of RPM in significant way highlights continued emphasis of virtual care in the Medicare program

Statutory restrictions on telehealth remain; Congressional delay on full-scale telehealth implementation

- CMS has emphasized that it wants telehealth to stay but is continuing to explore how it will be implemented within the existing Medicare framework

CMS Approach to Telehealth and RPM

- CMS has been interested in virtual care for many years but statutory restrictions and lack of knowledge/data about this type of service has prevented more widespread adoption
- Consumers, practitioners, insurers, and regulators have had an opportunity to begin to explore what benefits virtual care can bring and have increasing comfort in use of technology and successful outcomes
- At the same time, as with any new benefit category, understanding how the service will be used and making adjustments to better define the benefit is expected

**CY 2022
PFS
Proposed Rule**

Quick Hits:

- Official copy released on July 23, 2021
- Comments due September 13, 2021 at 5pm (can be submitted electronically)
- Touches on nearly every aspect of Medicare Part B

Proposed 2022 Medicare Physician Fee Schedule

Major focus on mental and behavioral health services; proposals include:

Telemental Health/Removal of Geographic Restrictions

Eliminate geographic restrictions on telemental healthcare coverage and allow the patient's home to be considered an originating site, as long as the patient and telemental health care provider meet in-person within six months of beginning telehealth services and at least once every six months after

Telemental Health/Audio-Only

Amend requirements for interactive telecommunications systems to include audio-only telehealth when used for the diagnosis, evaluation or treatment of mental health issues in a patient's home and requests comment on whether a different interval may be necessary or appropriate for mental health services furnished through audio-only communication technology

Telemental Health/Underserved Areas

Expand Medicare coverage to telemental health services delivered by federally qualified health centers (FQHCs) and rural health Clinics (RHCs)

Proposed 2022 Physician Fee Schedule

Remote Therapeutic Monitoring Proposals

- In addition to existing remote patient monitoring (RPM) codes, CMS is proposing a new category of CPT codes called “remote therapeutic monitoring” (RTM).
- The new codes gives providers additional opportunities for reimbursement in RPM/RTM programs.
- The proposed RTM code set covers patient data such as “musculoskeletal system status, respiratory system status, therapy (medication) adherence, therapy (medication) response, and pain.”
- Payment Parity with RPM: CMS is proposing paying RTM services codes at the same rate as RPM service codes.

Proposed RTM Codes

CPT code 989X4

Remote therapeutic monitoring treatment management services, physician/other qualified health care professional time in a calendar month requiring at least one interactive communication with the patient/caregiver during the calendar month; first 20 minutes

CPT code 989X5

Remote therapeutic monitoring treatment management services, physician/other qualified health care professional time in a calendar month requiring at least one interactive communication with the patient/caregiver during the calendar month; each additional 20 minutes (List separately in addition to code for primary procedure)

CPT code 989X3

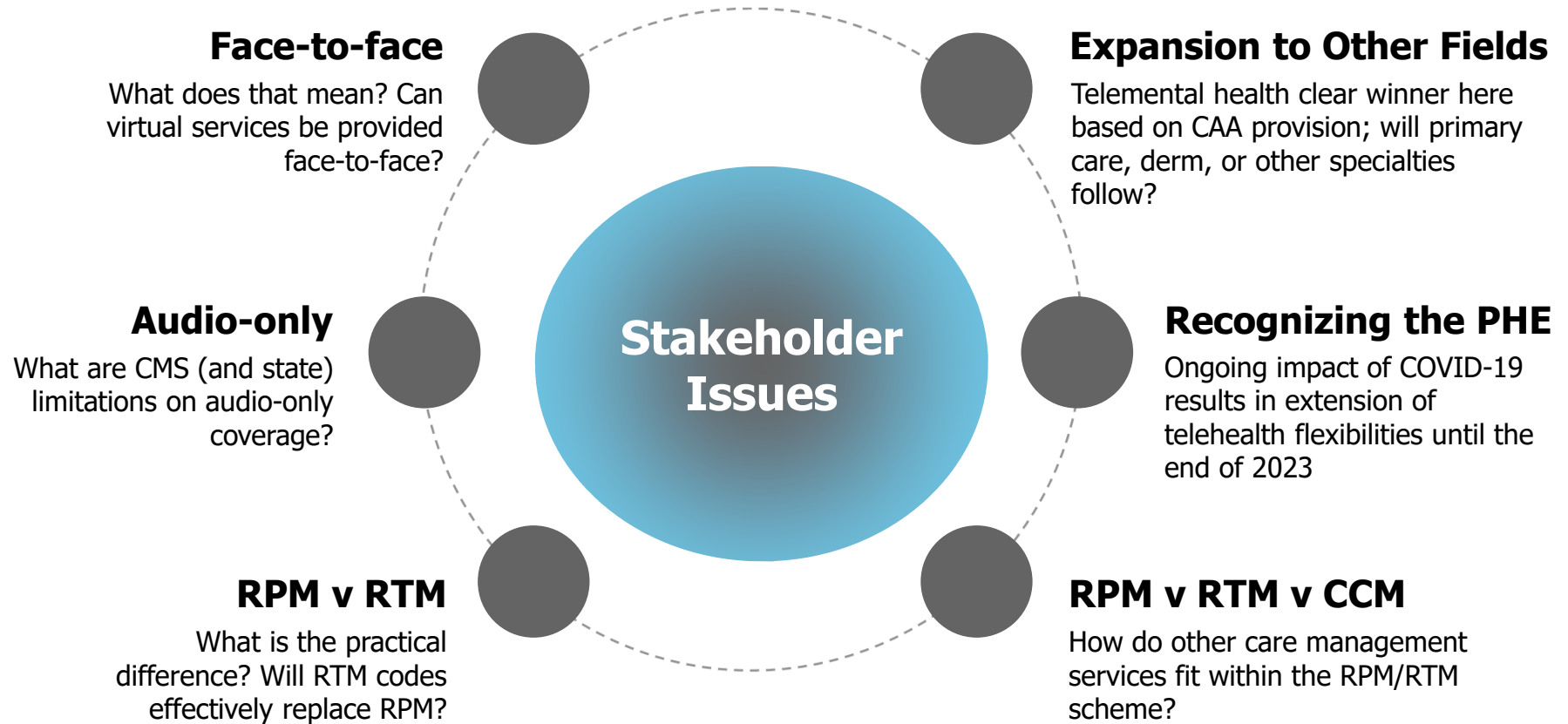
Remote therapeutic monitoring (e.g., respiratory system status, musculoskeletal system status, therapy adherence, therapy response); device(s) supply with scheduled (e.g., daily) recording(s) and/or programmed alert(s) transmission to monitor musculoskeletal system, each 30 days

CPT code 989X1

Remote therapeutic monitoring (e.g., respiratory system status, musculoskeletal system status, therapy adherence, therapy response); initial set-up and patient education on use of equipment

CPT code 989X2

Remote therapeutic monitoring (e.g., respiratory system status, musculoskeletal system status, therapy adherence, therapy response); device(s) supply with scheduled (e.g., daily) recording(s) and/or programmed alert(s) transmission to monitor respiratory system, each 30 days



What's Next for Telehealth?

1

Congressional Action Needed

- CMS and Congress are cautiously optimistic about telehealth.
- But Congress will need to pass permanent fix for telehealth

2

Opportunities Abound

- Even with limited statutory support, CMS is investing heavily in virtual care and care management policies.
- This means new opportunities for those operating in this space.

3

Key Areas of Focus

- What services can be effectively provided via virtual means?
- Is telehealth a substitute for in-person care or is it additive?

4

RPM and RTM Continue to Expand

- AMA and CMS are each attempting to better define the contours of monitoring in light of new technologies. Expect additional changes.

Join us next month!

Please join us for next month's webinar:

***Fast Break: Vaccine Mandates –
Latest Developments and Best Practices***

Featuring

Daniel Kadish and Jake Harper

Thursday, September 16, 2021 3:00 PM (EST)

Morgan Lewis

QUESTIONS?



Thanks and Be Well!



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[Click here for full bio](#)

Ben is the Director of Policy and External Affairs at the Center for Telehealth and e-Health Law (CTeL). Ben has been closely monitoring the telehealth flexibilities issued at the state and federal levels and proactively educates policymakers on the benefits of expanded telehealth and its potential to increase access to care for all Americans. Prior to joining CTeL, Ben served in the Executive Branch at the U.S. Office of Personnel Management, where he oversaw the Federal Employee Health Benefits Program on the agency's Congressional Affairs team. Ben also served in the U.S. House of Representatives as a health care advisor for Congressman Jim Sensenbrenner.

Thanks and Be Well!



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With a dual focus on litigation and regulatory compliance, Tesch represents providers in federal and state government investigations and litigation matters relating to criminal, civil, and administrative allegations, including violations of federal healthcare program fraud and abuse laws. Tesch also represents states, hospitals, clinics, nursing homes, physician groups, health plans and associations, with a focus on Medicare reimbursement, Medicaid supplemental payments and financing options, and analysis related to 1115 Demonstration Waivers.

Thanks and Be Well!



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Jake advises stakeholders across the healthcare industry, including hospitals, health systems, large physician group practices, practice management companies, hospices, chain pharmacies, manufacturers, and private equity clients, on an array of healthcare regulatory, transactional, and litigation matters. His practice focuses on compliance, fraud and abuse, and reimbursement matters, self-disclosures to and negotiations with OIG and CMS, internal investigations, provider mergers and acquisitions, and appeals before the PRRB, OMHA, and the Medicare Appeals Council.