

Treatment of Certain Relocating Provider-Based Departments During the PHE

CMS adopted a temporary "extraordinary circumstances relocation exception" policy to allow excepted on-campus provider-based departments ("PBDs") that relocate off-campus during the COVID-19 PHE to continue to bill and be paid as on-campus or excepted off-campus PBDs at the full Outpatient Prospective Payment System ("OPPS") payment rate (if the relocation is consistent with the state's emergency preparedness plan).

- After the PHE, temporarily relocated off-campus PBDs that do not return to their original location will be considered to be non-excepted PBDs and will be paid the Physician Fee Schedule ("PFS") equivalent rate.
- Hospitals must follow the standard application process to seek an extraordinary circumstances relocation exception for PBDs that *permanently* relocate after the PHE. In compliance with the process detailed in the IFC, both excepted off-campus and on-campus PBDs may relocate to off-campus locations and begin furnishing and billing for services under the OPPS prior to submitting documentation to the CMS Regional Office ("RO") to support the extraordinary circumstances relocation request.

During the PHE, hospitals may divide their PBDs into multiple locations and may relocate part of their excepted PBD to a new off-campus location while maintaining the original PBD location.

On-campus or excepted off-campus PBDs can be considered to have relocated (or partially relocated) to a beneficiary's home, or other temporary expansion location of the hospital if the beneficiary is registered as the hospital's outpatient during service delivery.

- The PBD would still be considered an on-campus or excepted off-campus PBD and would bill with the "PO" modifier to receive the full OPPS rate.
- If the hospital does not relocate (or partially relocate) an existing on-campus or excepted off-campus PBD to the patient's home and does not seek an exception under the temporary extraordinary circumstances relocation exception policy, the patient's home would be considered a new non-excepted off-campus PBD, and the hospital would bill with the "PN" modifier and receive the PFS-equivalent rate.
- The IFC sets out specific processes for hospitals furnishing certain services using telecommunications technologies.

Furnishing Hospital Outpatient Services in Temporary Expansion Locations of a Hospital (Including the Patient's Home)

- During the PHE, hospital staff may furnish certain outpatient therapy, counseling, and educational services incident to a physician's service to a beneficiary at a temporary

expansion location (including the beneficiary's home) using telecommunications technology if the beneficiary is registered as an outpatient.

- Hospitals may also furnish certain clinical staff services, such as drug administration, in the patient's home as an outpatient PBD and to bill for these services as hospital outpatient department ("HOPD") services when the patient is registered as a hospital outpatient.
 - Hospital clinical staff services may not be provided through telecommunications.
- When a patient receives a professional service via telehealth in a temporary expansion location that is a PBD of the hospital, and the patient is a registered outpatient of the hospital, the hospital may bill the originating site facility fee for the service.

Graduate Medical Education

- For the duration of the PHE, CMS will use the hospital's available bed count from the day before the PHE declaration (Jan. 31, 2020) for purposes of determining a hospital's indirect medical education ("IME") adjustment under the inpatient prospective payment system ("IPPS") to exclude beds temporarily added during the PHE from the calculation. Teaching status adjustment values from the day before the PHE declaration will similarly be used for inpatient rehabilitation facilities or inpatient psychiatric facilities.
- For purposes of IME and Medicare direct GME payments during the PHE, teaching hospitals may claim time spent by residents training at other hospitals, residents' presence in non-teaching hospitals will not trigger establishment of per resident amounts or full-time equivalent resident caps at non-teaching hospitals, and time spent by residents providing routine services under arrangements outside the hospital to a hospital's inpatients will not be treated differently from time spent by residents at locations established and operated by the hospital prior to the PHE.

Additional Flexibility Under the Teaching Physician Regulations

- During the PHE, Medicare may make PFS payments for teaching physician services when residents furnish certain services in primary care centers, including via telehealth.
- Teaching physicians may provide the necessary direction, management and review for the resident's services using audio/video real-time communications technology.

Merit-Based Incentive Payment System ("MIPS") Qualified Clinical Data Registry ("QCDR") Measure Approval Criteria

- CMS will delay by 1 year the policy requiring that all QCDR measures be fully developed and tested (with complete testing results at the clinician level) prior to submitting the QCDR measure at the time of self-nomination.

- CMS will also implement a 1-year delay for the policy requiring QCDRs to collect data on a QCDR measure (appropriate to the measure type) prior to submitting the QCDR measure for CMS consideration during the self-nomination period.

Application of Certain National Coverage Determination (“NCDs”) and Local Coverage Determination (“LCDs”) Requirements During the PHE for the COVID-19 Pandemic

- Unless expressly permitted by statute, items and services must still be reasonable and necessary for the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member to be payable under Part A or Part B
- During the PHE, CMS will not enforce the clinical indications only for coverage across respiratory, home anticoagulation management and infusion pump NCDs and LCDs and will not enforce the clinical indications for therapeutic continuous glucose monitors in LCDs.

Update to the Hospital Value-Based Purchasing (“VBP”) Program Extraordinary Circumstance Exception (“ECE”) Policy

- The IFC modifies the Hospital VBP Program's ECE policy to allow CMS to grant ECE exceptions to hospitals if CMS determines an extraordinary circumstance out of the hospital's control affected an entire region.
 - If CMS grants an ECE to hospitals in a region and a hospital still fails to report the minimum number of cases and measures required for CMS to calculate the hospital's Total Performance Score, the hospital will be excluded from the Hospital VBP Program for the applicable program year and may face additional penalties specified in the IFC.

Payment for COVID-19 Specimen Collections to Physicians, Nonphysician Practitioners and Hospitals

- For both new and established patients, physicians and non-physician providers may use CPT code 99211 to bill for services furnished incident to their professional services when clinical staff assess symptoms and collect specimens for COVID-19 testing.
- CMS created a new CPT code C9803 for HOPDs to bill for clinic visits dedicated to specimen collection.
