

July 1, 2020

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Seema Verma
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-5531-IFC
P.O. Box 8016
Baltimore, MD 21244-8016

Re: CMS-5531-IFC Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency

Dear Administrator Verma:

On behalf of the more than 9,000 physiatrists of the American Academy of Physical Medicine and Rehabilitation (AAPM&R), we appreciate the opportunity to submit comments in response to the above-referenced interim final rule with comment period. AAPM&R is the national medical specialty organization representing physicians who are specialists in physical medicine and rehabilitation (PM&R). PM&R physicians, also known as physiatrists, treat a wide variety of medical conditions affecting the brain, spinal cord, nerves, bones, joints, ligaments, muscles, and tendons. PM&R physicians evaluate and treat injuries, illnesses, and disability and are experts in designing comprehensive, patient-centered treatment plans. Physiatrists utilize cutting-edge as well as time-tested treatments to maximize function and quality of life.

AAPM&R continues to be grateful to CMS for the quick action the agency has taken thus far during the public health emergency (PHE). The additional flexibilities offered in this second interim final rule have been an enormous help to our physicians as they provide necessary patient care during the pandemic. Below we have detailed several comments specific to certain sections of the interim final rule.

B. Scope of Practice

AAPM&R appreciates the need to increase flexibility in scope of practice during the PHE to provide the necessary care for patients related to COVID-19, especially for lab testing and COVID-19 related orders. CMS has finalized the flexibility for NPs, CNSs, PAs, and CNMs “to furnish services



that would be physician’s services if furnished by a physician and be paid under Medicare Part B for the professional services they furnish directly and ‘incident to’ their own professional services, to the extent authorized under their State scope of practice.” While AAPM&R appreciates that this provision is subject to state law and understands that this provision was made so that these practitioners can order, furnish directly, and supervise the performance of diagnostic tests during the PHE; we have concerns that this language, as written, would more broadly allow inappropriate scope of practice expansion under this provision. ***AAPM&R asks CMS to re-instate physician supervision requirements after the PHE.***

As expressed in response to the first COVID-19 IFR, we are aware of the effects of COVID-19 on patients will linger for long after the “surge” infection rates and the initial overwhelming fight with the virus itself. As acute care facilities were and continue to be overwhelmed by COVID-19 patients, so will inpatient rehabilitation facilities (IRFs). Physiatry is in a unique position to help the complex needs of COVID-19 patients. We already know that COVID-19 patients who come off ventilators need rehabilitation for so many different issues that arise from the disease and from treating the disease. As such, ***AAPM&R asserts that physiatrists and qualified rehabilitation physicians should be maintained as the leaders of patient care in IRFs to ensure appropriate recovery of these complex patients.*** Physiatrists and rehabilitation physicians are educated, trained, and experienced to help patients with cardiopulmonary issues, anoxic brain injury, regaining muscle function, all of which are just some of the issues COVID patients face when their initial fight with the virus is over.

J. Care Planning for Medicare Home Health Services

Similar to our comments regarding scope of practice in the section above, we understand the importance of a large healthcare workforce during the PHE in the home health services space. With the volume of patients needing adequate home health services following discharge after being treated for COVID-19, there is a more significant need in this space during the PHE which justifies using non-physician providers (NPPs) in this role. However, ***as we return to the provision of pre-PHE patient care, AAPM&R strongly disagrees with the proposal that these regulations become permanent. We recommend that physician certification of home health services remain the care standard.*** AAPM&R asserts that care planning for home health services requires specialty training which NPPs do not have.

N. Payment for Audio-Only Telephone Evaluation and Management Services

On behalf of our membership we would like to thank you for revising the RVU values for the telephone evaluation and management codes as described in the interim final rule. As we noted in our comments to the first PHE interim final rule, the ways in which physicians are being asked to provide telephone services during the COVID-19 pandemic do not coincide with the original intention of the telephone codes, nor do they coincide with the way those codes were valued by the RUC. Increasing payment for these services helps to ensure that patients continue to receive high-quality care despite barriers that may prevent use of audio-visual technology.

Thank you for the opportunity to comment on this important interim final rule. If the Academy can be of further assistance to you on this or any other rule, please contact Carolyn Millett at 847-737-6024 or by email at cmillett@aapmr.org for further information.

Sincerely,



Annie Davidson Purcell, D.O.

Chair

Reimbursement and Policy Review Committee