April 8, 2020

Seema Verma, MPH
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1744-IFC
Baltimore, Maryland 21244-8016

*Submitted via www.Regulations.Gov*

**RE: Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency**

Dear Administrator Verma:

The Heart Rhythm Society (HRS) offers the following comments on the recent expansion of billing for telehealth services. HRS is the international leader in science, education and advocacy for cardiac arrhythmia professionals and patients, and the primary information resource on heart rhythm disorders. Its mission is to improve the care of patients by promoting research, education, and optimal health care policies and standards. HRS represents more than 7,100 specialists in cardiac pacing and electrophysiology, consisting of physicians, scientists and allied professionals. Electrophysiology is a distinct specialty of cardiology, with eligibility for board certification in clinical cardiac electrophysiology through the American Board of Internal Medicine, as well as certification in cardiology.

We appreciate the swift actions that the Centers for Medicare and Medicaid Services (CMS) has taken to address the unprecedented public health emergency (PHE) in the United States due to the COVID-19 pandemic. We are particularly supportive of many of the changes made effective by CMS as part of its interim final rule with comment period (IFC) issued on March 30, 2020, *Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency*. As CMS works to safely increase patient access to care in the face of the COVID-19 emergency, HRS requests that CMS expand provisions included in the IFC related to Medicare Telehealth Services and office and outpatient evaluation and management (E/M) codes.

**Medicare Telehealth Services**

Through a series of previously issued waivers as well as the policies in the IFC, the U.S. Department of Health and Human Services (HHS) and CMS have made great strides in providing flexibility for furnishing and billing Medicare Telehealth Services during the public health

emergency (PHE). The waivers took steps to remove the geographic, originating site, and established patient telehealth requirements, greatly expanding accessibility of Medicare Telehealth Services, particularly to patients who are in the home. Part of the proposed expansion allows office and outpatient E/M visit levels to be selected via medical decision making (MDM) (based on current MDM guidance) *or* time (based on the typical time associated with the current office and outpatient E/M CPT codes). In addition, CMS waived the history and physical (H&P) documentation requirements for billing office and outpatient E/M codes via Telehealth during the PHE.

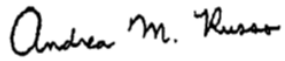
Separately in the IFC, Medicare requires that Medicare Telehealth Services must be provided via "interactive telecommunications technology," which CMS goes on to define as "*interactive multimedia communications equipment that includes, at a minimum,* ***audio and video*** *equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner.*" ***HRS urges CMS to allow billing for E/M visits furnished solely via audio (i.e., telephone) communication.*** Many Medicare beneficiaries do not have access to or familiarity with video-based telecommunications technology (e.g., Skype or FaceTime). If a video component is necessary and available to provide the E/M, we believe many physicians will use it. However, there will be many instances in which audio-only technology (i.e. phone-based communications) will be the only technology available, or the only technology that patients want to use. Given that the Agency should be offering incentives to encourage the provision of medically necessary care remotely when possible given the contagious nature of COVID-19, we believe that this change would be important to ensuring that physicians have the resources to treat patients during this PHE and that patients will have access to the care they need in the least costly manner and in the least risky environment possible.

We are aware that, separate from the Medicare Telehealth Services policies, CMS has made changes to recognize and expand access to other non-face-to-face services that are not under the umbrella of Medicare Telehealth Services (as recognized by Social Security Act §1834(m)), including PHE policies directed at Virtual Check-ins (as recognized by G2012) and telephone assessment and management codes (CPT 98966-98968; CPT 99441-99443). We appreciate those changes for when those services are provided. However, we do not believe that these codes describe all phone-only interactions. The telephone codes were largely intended for monitoring basic information with the patient. They do not describe the resources or value of service provided when full E/M services are being delivered, sometimes via phone only. In this very unique time, patients might not have the strength, interest or technical capabilities to participate in an audio-video visit. *In fact, patients unable to do audio+visual visits are more likely to be older or socioeconomically disadvantaged. While the data obtained and services provided during an audio+visual visit versus an audio only visit are essentially the same, the gap between codes may have unintended consequences such as decreased access to healthcare for these patients.* Limiting physicians' ability to bill for the care that they are providing will result in miscoding, leading to a lack of knowledge about the services that are rendered during this time. Physicians should not be penalized for the method of telehealth that is provided when that decision is based on either the patient's technological equipment or preference.

Office and outpatient E/Ms have been on the list of approved Medicare Telehealth Services for some time, clearly recognizing the ability of providers to deliver these services remotely. As mentioned above, CMS has already waived the requirement that a history and physical be performed and documented for office and outpatient E/Ms performed via telehealth. Therefore, during the PHE, we ask that the Agency extend additional flexibility to delivering this service via audio-based communications when it is necessary and when the physician is confident in her or his ability to perform the service via phone that is described by the code being billed (keeping in mind that the H&P requirements have been waived).

We thank you for your work to address the current and ongoing crisis. Please contact Kimberley Moore at KMoore@hrsonline.org if HRS can be of assistance to CMS.

Sincerely,



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