CMS 2021 Medicare Physician Fee Schedule Proposed Rule

On August 3rd, 2020 CMS released their proposed rule for the 2021 Medicare Physician Fee Schedule - available HERE

Updates on the CMS Appropriate Use Criteria/Clinical Decision Support (AUC/CDS) program were absent from the proposed rule, indicating that CMS is moving forward with the program's full implementation starting January 1st, 2021 when CMS will deny claims lacking the required documentation.

For more content on AUC/CDS visit our website: https://radadvocate.com/news/

Highlights of the proposed rule include:

Fee Schedules

- Decreasing the conversion factor to **$32.26**, a -$3.83 change from the 2020 conversion factor of $36.09.
    - The change in the conversion factor would also decrease the Anesthesia conversion to **$19.96**, a -$2.05 difference from 2020
- The estimated impact to specialties is:

Specialty	Impact
Radiology	-11%
Interventional Radiology	-9%
Radiation Oncology	-6%
Nuclear Medicine	-8%
Pathology	-9%
Anesthesiology	-8%
Nurse Anes. / Anes. Assistants	-11%
Dermatology	-2%

Why is this happening? CMS is moving forward with the changes to Evaluation and Management (E/M) coding changes finalized in the 2020 MPFS. In the 2020 MPFS, CMS announced that they would pay separate rates for each code instead of establishing blended payment rates for established patient E/M codes. In addition, CMS adopted the AMA-RUC recommended RVU's which increase the reimbursement rate for E/M codes.

Specialties that commonly bill E/M codes may see increases of up to 17%, whereas specialties that do not, are expected to see decreases of up to -11% due to the budget neutrality of the Medicare Physician Fee Schedule.

Supervision of Diagnostic Tests by Certain Nonphysician Practitioners

CMS is proposed to permanently adopt a waiver granted during the PHE that allows nurse practitioners (NPs), clinical nurse specialists (CNSs), physician assistants (PAs) and certified nurse-midwives (CNMs) to supervise the performance of diagnostic tests in addition to physicians.

If finalized, effective January 1, 2021, NPs, CNSs, PAs and CNMs would be allowed under the Medicare Part B program to supervise the performance of diagnostic tests within their state scope of practice and applicable state law, provided they maintain the required statutory relationships with supervising or collaborating physicians.

Telehealth

As a result of the rapid utilization of telehealth services during the COVID-19 public health emergency (PHE), CMS is proposing to adopt some telehealth flexibilities beyond the PHE. This includes the expansion of payment for services furnished by allied health professionals both in person and through telehealth. CMS is proposing to:

- Continue to allow direct supervision to be furnished via telehealth for the rest of the PHE or December 31, 2021.
- Permanently add several services to the Medicare telehealth services list which were temporarily added during the PHE.
- Adopt criteria to temporarily add codes to the CMS list of telehealth codes, which can now be added outside of rulemaking.

CMS is **not proposing** to continue to pay for 'audio-only' telehealth codes after the end of the PHE but is seeking comment on whether they should adopt new coding and payments for services like virtual check- ins. Virtual check-in codes cover a 'brief communication' between patients and providers to assess if a patient needs to be seen in person.

Additionally, CMS is formalizing guidance on using audio/video technology when the patient and practitioner are in the same institutional or office setting to clarify that the practitioner should bill for the service furnished as if it was furnished in person, and the service would not be subject to any of the telehealth requirements.

Quality Payment Program (QPP)

2021 Performance Threshold and Category Weights for the Merit-Based Incentive Program (MIPS)

- Proposing a penalty threshold of **50 points** for performance year 2021, instead of the 60-point threshold set by the 2020 final rule
    - CMS acknowledges that COVID-19 impacted participation during the 2019 and 2020 performance years and feels that lowering the penalty threshold will help transition participants back into the program.
- Category Weights
    - Quality – 40% (decrease of -5%)
    - Cost – 25% (increase of +5%)
    - Improvement Activities – 15%

    - Promoting Interoperability – 20%
- Note: CMS is required to have cost and quality equally weighted by the 2022 performance year.

MIPS Value Pathways (MVPs) and Alternative Payment Pathways (APP)

- Implementation of MVPs, a new framework for MIPs participation, is proposed to be delayed until the 2022 performance year. In addition, CMS is proposing an Alternative Payment Pathway (APP) which provides a similar framework for the APM track of the Quality Payment Program.

APM Scoring Standard

- CMS is proposing to remove the APM scoring standard and include APM Entities as a submitter type from the program. This would mean that eligible clinicians who have previously been considered as 'MIPs APMs' would still be able to submit through their APM Entity but would be subject to the MIPs category weights. Under the APM scoring standard, the cost category is always weighed at 0%.

2020 Performance Year Flexibilities

- **Complex Patient Bonus -** CMS is proposing to increase the complex patient bonus, which is applied towards the total score, for all participants in the 2020 performance year. This bonus is normally capped at 5 points but if CMS's proposal is finalized, the point cap would increase to 10 points. CMS estimates that this would add about 3+ points towards participant scores, increasing the chance that more clinicians will exceed the 45-point penalty threshold for 2020.

We will provide additional content specific to the proposed changes to the QPP program in the upcoming weeks.

The proposed rule is available HERE and will be open for public comment starting August 17th, 2020 on the Federal Register HERE.

As always, ADVOCATE will continue to keep you informed on the issues impacting medical groups as they develop.

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