Compliance Impact of Telehealth Services
Telemedicine and Virtual Services

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About PYA
PYA, P.C. is a national healthcare advisory services firm providing consulting, audit, and tax services including:

- Regulatory compliance
- Risk assessments
- Information Technology advisory
- Mergers and acquisitions due diligence
- Fair market value assessments
- Business valuations
- Strategic planning
- Operations optimization
- Tax, audit, and assurance
Key Definitions

Telehealth
- A catch-all term for any non-face-to-face delivery of care (e.g., telephonic services, e-prescribing, on-line health assessments)

Telemedicine
- Use of technology to replicate a traditional, face-to-face provider-patient encounter

Virtual Services
- Technology-based services that are innately not face-to-face.

The Compelling Case for Telehealth
“De-Limits” Healthcare Services

- Video, mobile apps, text-based messaging, sensors, and social platforms deliver health services in a way that is independent of time or location.
  - “Virtual visits” take place between patients and clinicians via communications technology.
  - Can be a videoconference between a practitioner and a patient at home.
  - Could mean that a patient can interact with an offsite medical specialist at the primary care provider (PCP) office.

Improves Patient Satisfaction

- Improves patient satisfaction:
  - Provides easier access to care
  - Improves routes to communication
  - Gives patients greater control over their care
  - Decrease transmission of communicable diseases
  - Eliminates mobility or transportation issues

- School/work schedules
- Disabilities
- Rural locations
- Lack of affordable/available transportation
Improves Patient Satisfaction

Patient demand for telehealth tends to transfer to satisfaction after implementation.

- Pilot program at Brigham and Women’s Hospital:
  - 97% satisfaction rate with virtual visit
  - 74% stated interaction actually improved the relationship with provider
- Measures of success:
  - Decreased time spent traveling to see providers
  - Reduced number of no-shows
  - Increases patient-doctor engagement which will decrease hospital readmissions


Enhances Efficiency

- Efficient care delivery by providers
  - Mobile imaging and lab specimen collections improve diagnostics
  - Allows for providers to interact with patients in the patients’ environments
  - Can clue clinicians into environmental issues patients may not otherwise disclose
  - Patients’ vitals will be more accurate to their daily life as well, removing or lowering the incidence of white coat hypertension
New Opportunities

- Virtual medical assistants
- Telemedicine robots
- Wearable sensors and biometric devices:
  - PhysioGlove
  - Health-e-Chair
  - Fall detection
- Handheld telemedicine kits

New Opportunities

- Screening for diabetic retinopathy
- eVisits – clinical exchanges completed through secure messaging of questions, responses, images
- Provider collaboration, esp. pediatrics, oncology, behavioral health
- Employer health programs
- Rural school health clinics
You Get What You Pay For

- In today’s fee-for-service world, telehealth’s growth is limited to those services for which payment is available.

Telemedicine Reimbursement
Telemedicine - Key Terms

**Originating Site**
Location of patient receiving services (and presenter)

**Distant Site**
Location of practitioner furnishing service.

**Synchronous vs. Asynchronous**
Real-time interactive technology vs. Store-and-forward technology

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Medicare Payments for Telemedicine

- **The Perfect Storm**

  - Distant Provider Site
  - Originating Site
  - Covered Services (CPT code)
  - Geographic Locations
  - Proper Technology Platform
2016 Utilization

- **United States**
  - 90,000 Medicare Fee-for-Service (FFS) beneficiaries received telemedicine services:
    - 0.25% of all Medicare FFS beneficiaries
    - 48.3% increase over 2014
  - 5,000 practitioners billed for telemedicine services.

- **Kansas (23rd)**
  - 1,548 Medicare FFS beneficiaries received telemedicine services.
  - 82 practitioners billed for telemedicine services.

- **Missouri (4th)**
  - 4,107 Medicare FFS beneficiaries received telemedicine services.
  - 174 practitioners billed for telemedicine services.

New Exceptions

- **Telestroke**
  - Effective for services furnished on or after 01/01/2019, no restrictions on geographic location and type of originating site for services furnished to diagnose, evaluate, or treat symptoms of acute stroke
  - Physician providing services from distant site + originating site append modifier G0 to claim

- **Medicare Advantage (MA)**
  - Historically MA plan could cover additional telemedicine services
  - For 2020 plan year, MA plans may eliminate geographic and location requirements
New Exceptions

- **Medicare Shared Savings Program**
  - Waiver of geographic and location requirements for Accountable Care Organizations (ACO) participants in risk models

- **Center for Medicare and Medicaid Innovation (CMMI) Initiatives**
  - NextGen ACO = asynchronous for dermatology and ophthalmology
  - Comprehensive Care for Joint Replacement (CJR), Bundled Payments for Care Improvement – Advanced (BPCI-A), comprehensive end-stage renal disease (ESRD) care model

Medicaid

- 50 states + DC reimburse for live video
- 11 states reimburse for asynchronous telemedicine
- 14 states reimburse for services provided in patient’s home
Commercial Payers

- 39 states have telemedicine parity laws
  - Coverage vs. reimbursement
  - Inconsistent definitions
- Only cover state-regulated plans, not Employee Retirement Income Security Act of 1974 (ERISA) (self-funded) plans

Virtual Services Reimbursement
Internet Consultations

- New in 2019 for treating physician – consultant interactions
- Requires documented patient consent
  - CPT® 99452 – Treating Physician ($35.59)
    - Minimum of 16 minutes (no double-counting time spent on other billable service)
    - If spend more than 30 minutes, report non-face-to-face prolonged service codes (CPT® 99358, 99359)
  - CPT® 99446 to 99449, and 99451 – Interprofessional Consultation
    - Five codes ranging from minimum of 5 minutes to 30+ minutes; reimbursement from $18 – $73

CPT® Prefatory Language

- None of the codes should be reported when the sole purpose of communication is to arrange a transfer of care or other face-to-face service.
- “When the [consultation] leads to a transfer of care or other face-to-face service (e.g., a surgery, a hospital visit, or a scheduled office evaluation of the patient) within the next 14 days or next available appointment date of the consultant, these codes are not reported.”

Source: Medicare Claims Processing Manual, 100-04, Chapter 12
CPT® Prefatory Language

- Consultant must document request from treating practitioner and reason for the request.
- Consultant cannot bill for any service that requires less than five minutes of work.
- Consultant does not have to meet or otherwise personally interact with the patient.
- Time spent on consultant communications with the patient and/or family cannot be counted for purposes of 99446 to 99449.

CPT® Prefatory Language

- Consultant cannot bill any code if he/she has seen patient in face-to-face encounter within the last 14 days.
- For 99446 to 99449 (but not 99451), > 50% of service time must be devoted to medical consultative verbal or Internet discussion.
- Both verbal and written reports to requesting practitioner required for 99446 to 99449; 99451 only requires written report.
CPT® Prefatory Language

- If more than one interaction required to complete consultation request, entirety of the service and the cumulative discussion and information review time must be reported with single code.
- 99446 to 99449 and 99451 cannot be reported more than once within a seven-day interval for the same patient.
- 99452 cannot be reported more than once in a 14-day interval.
  - Unclear whether restriction refers to same patient and same consultant or same patient and multiple consultants.

Virtual Check-Ins

- New in 2019: Reimbursement for patient communication unrelated to office visit:
  - HCPCS G2012 – Live Virtual Check-In ($13.93/$12.64)
    - Brief communication technology-based service by physician or other qualified healthcare professional provided to established patient, not originating from related E/M service provided within previous seven days nor leading to E/M service or procedure within the next 24 hours or soonest available appointment; 5 – 10 minutes of medical discussion.
Virtual Check-Ins

- New in 2019: Reimbursement for patient communication unrelated to office visit:
  - HCPCS G2010 – Store and Forward Images ($11.87/$8.95)
    - Remote evaluation of recorded video and/or images submitted by the patient, including interpretation with follow-up with the patient within 24 business hours, not originating from related E/M service provided within previous seven days nor leading to E/M service or procedure within next 24 hours or soonest available appointment.

Remote Patient Monitoring

- CPT® 99453 ($17.40) – Initial Set-Up and Patient Education
  - One time, practice expense only
- CPT® 99454 ($57.66) – Monthly Monitoring Fee
  - Each month in which provide at least 20 minutes of monitoring; practice expense only
  - Requires transmission and interactive communication
Remote Patient Monitoring

- CPT® 99457 ($48.07/$30.86) – Management Services
  - 20 minutes or more of clinical staff/physician/other qualified healthcare professional time in a calendar month requiring interactive communication with the patient/caregiver during the month
  - Currently requires direct supervision; 2020 MPFS proposed rule would change to general supervision

Open Questions

- Regulatory (CMS promises guidance forthcoming)
  - Qualifying technologies?
  - Simultaneous use of multiple technologies?
  - Medical necessity/documentation?
  - Exception monitoring?
  - Direct vs. general supervision of clinical staff?

- Practical
  - Most appropriate conditions for use of Remote Patient Monitoring (RPM)?
  - Technology costs?
  - Patient acceptance?
Compliance Concerns

Licensure

- Practitioner must be licensed at originating site:
  - Unique rules for Veterans Administration
  - Some states recognize exceptions for consultations, border states, follow-up care
- Interstate medical licensure compact:
  - State of principle licensure
  - Subject to applicable rules in each state in which physician elects to treat patients and rules adopted by Interstate Medical Licensure Commission
  - Licensure action in one state impacts licensure in all
- Varying rules regarding licensure at distant site
28 States + DC + Guam

Source: Interstate Medical Licensure Compact, found at https://imlcc.org/

Regulatory Considerations

- State medical board regulations
  - Cross-state licensing: allowing practitioners to provide telemedicine care to a patient in a neighboring state in which he or she is not licensed.
  - Online prescribing: involves scheduled drugs or those used for chronic pain management and may require an in-person physical exam.
  - Physician-patient relationship: some states require an in-person physical exam to establish this relationship, others allow for the relationship to be established through certain forms of telemedicine, like real-time videoconferencing.
  - Patient-informed consent: some states require a written informed consent while others don’t require it at all.
Regulatory Considerations

- Other state regulatory considerations
  - Credentialing and privileging of telemedicine providers
    - Most states and hospitals have adopted American Medical Association guidelines, which recommend the elimination of dual privileging for both distant and originating site institutions
    - Privileging need only come from originating site hospitals, which reduces administrative encumbrance and allows more freedom for providers to access their patients
  - Malpractice liability
    - Most reported telemedicine malpractice cases involve physicians who prescribed medication across state lines without conducting in-office patient exams
    - Physicians and patients may be located in states with different liability laws, statutes of limitations, standards of care or damage caps
    - Many malpractice policies exclude unlicensed activities, so physicians also must understand state licensing provisions and coverage requirements in other states
**Regulatory Considerations**

- Practitioners delivering care through telemedicine need to be held to the same standards as when they are delivering in-person care.
- Important regulatory issues include:
  - Patient consent
  - HIPAA violations
  - Kickbacks
  - Inappropriate prescribing of drugs, devices, durable medical equipment (DME)

**Reimbursement Considerations**

- Patient demand – care when and where you want it that costs less:
  - Virtual consults are priced at $40 to $50, while office visits check in at $136 to $176.
- Expanding array of services
- Employer savings

Source: "Assessment of the Feasibility and Cost of Replacing In-Person Care with Acute Care Telehealth Services", Dale H. Yamamoto, December 2014
Reimbursement Considerations

- CMS reimbursement is coming…slowly.
  - Remote Patient Monitoring Codes
  - Modifier 95
  - Place of Service 02
  - CHRONIC Care Act
- Growth in large telehealth companies
- Telehealth parity laws

Getting Paid for Virtual Healthcare Services

- Determine type of virtual healthcare services
- Define the use care
- Understand Medicare rules:
  - Originating and Distant Sites
  - Eligible CPT® codes
  - Use the proper modifier
  - Facility fees
- New patients
- Commercial payers
- Medicaid
- Billing staff training
- Convenience fees
Tips for Billing and Coding

- Document time spent.
- Know how to bill the video component.
- Include documentation on the peripherals used.
- **Do not use** the 95 modifier for asynchronous services.

Compliance Issues for Virtual Services

- **Professionals** – licensing, practice standards, insurance coverage
- **Medicare/Medicaid** – proper coding (CPT®, POS, Modifiers, Facility Fee), location of provider
- **Commercial Insurance, Medicare Advantage, and Medicaid Managed Care** – contracts include negotiated payment amounts, evaluation of alternative forms of payment
- **Patient Consent** – acknowledge telehealth services, recognize patient choice
Compliance Issues for Virtual Services

- **Fraud and Abuse** – Stark Law, Anti-Kickback Statute (AKS), Civil Monetary Penalty (CMP) Law, False Claims Act (FCA), state regulations, corporate practice of medicine, compliance with state insurance laws

- **Credentialing** – proxy credentialing, credentialing and re-credentialing

- **Privacy and Security** – protocols in place for virtual healthcare services

Questions?
Thank you!

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