

CMS Proposed Rule:

2022 Medicare Physician Fee Schedule

ASAM Summary of Major Provisions

On November 2, 2021, the Centers for Medicare and Medicaid Services (CMS) issued a [Final Rule](#) which revises CY 2022 payment policies under the Medicare Physician Fee Schedule (PFS) and makes other policy changes, including the implementation of certain provisions of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (the SUPPORT Act).

CMS has also published a fact sheet on the 2022 Medicare Physician Fee Schedule Final Rule, available [here](#).

The 3.75% payment increase provided by the Consolidated Appropriations Act of 2021 is set to expire at the end of 2021, absent Congressional action. This along with a decrease in the Medicare conversion factor will mean that several specialties, including Addiction Medicine (ADM), will receive less Medicare dollars as a result during the 2022 payment year.

CMS also finalized changes to other programs. The primary changes are as follows:

Opioid Treatment Programs

CMS finalized rules enabling Opioid Treatment Professionals (OTPs) to furnish counseling and therapy services via audio-only (telephone calls) technologies in cases where two-way audio and video communication is unavailable to the beneficiary, after the conclusion of the public health emergency (PHE) for COVID-19. This includes circumstances where the beneficiary is not capable or denies consent to the use of two-way audio and video interaction.

Electronic Prescribing of Controlled Substances (EPCS)

CMS finalized plans to implement the second phase of the electronic prescribing requirement included in the SUPPORT Act. This revision codifies certain exemptions to the requirement, including when:

- The prescriber and dispensing pharmacy are the same entity;
- The prescriber issues 100 or fewer controlled substance prescriptions for Part D drugs per calendar year;
- The prescriber is located in the same geographic area as a natural disaster or;
- Prescribers are approved for a waiver for extraordinary circumstances (e.g., a sudden influx of patients due to a pandemic). Other extraordinary circumstance exemptions that CMS recently added include technological failures and cybersecurity attacks.

CMS finalized rules enabling prescribers to request a waiver where circumstances beyond their control prevent them from electronically prescribing a controlled substance covered by Part D.

Formal compliance actions will begin on January 1st, 2023. In the interim, CMS will enforce compliance through compliance letters.

Telehealth

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CMS announced that it will allow certain services added to the Medicare telehealth list to remain on the list until the end of 2023. The complete list of Medicare telehealth services can be found [here](#). Additionally, CMS finalized proposals to:

- Continue reimbursement for mental health telehealth services **without geographic restrictions**, provided that the patient has an **existing in-person relationship** with the provider. CMS requires that an in-person relationship include 1 in-person visit within a 6 month period prior to the telehealth encounter, and at least 1 in-person visit every 6 months thereafter.
- Continue reimbursement for mental health telehealth services **in the home**, provided that providers and patients complete 1 in-person visit within 6 months of the initial telehealth service, and at least once for every 12 months afterward with exceptions for situations where providers and patients agree that the risk/burden of in-person meetings outweighs the benefit. Requirement for in-person meetings can be satisfied by other physicians within the same specialty and subspecialty group if the existing provider is unavailable.
- Amend current regulatory requirement for interactive telecommunications (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) to include **audio-only communication technology** when used for telehealth services for the diagnosis, evaluation, or treatment of **mental health disorders** furnished to established patients in their homes.
- Limit the use of an audio-only interactive telecommunications system to **mental health services** furnished by practitioners who have the capability to furnish two-way, audio/video communications, but where the beneficiary is not capable of using, or does not consent to, the use of two-way, audio/video technology.
 - **CMS clarified that substance use disorder (SUD) is included in the revised definition above such that practitioners can use audio-only communication technology to provide treatment for a SUD. CMS also clarified that the in-person requirements described above do not apply to treatment of a patient diagnosed with a SUD for treatment of that disorder or a co-occurring mental health disorder.**
- Require the use of a new modifier for services furnished using audio-only communications, which would serve to certify that the practitioner had the capability to provide two-way, audio/video technology, but instead, used audio-only technology due to beneficiary choice or limitations.

Other Provisions

CMS confirmed that it will extend its audio-only flexibility for OTPs to the therapy and counseling portions of the bundled payments for SUDs in office-based practices.

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CMS finalized coding and payment for a take-home supply of 8 mg naloxone hydrochloride nasal spray.