OAAPN
Ohio Association of Advanced Practice Nurses

COVID-19 Emergency Rules for Telemedicine Visits

March 23, 2020

In an effort to provide better access to healthcare during the COVID-19 outbreak, the federal government, the State of Ohio, and many commercial payers have expanded coverage of telemedicine services. At this time, it is unknown when the emergency rules will end (or if they will be enacted as permanent policy). However, the Ohio Association of Advanced Practice Nurses ("OAAPN") remains committed to providing its members with on-going updates on this topic for its members. If you have any questions, please contact us at info@oaapn.org.

MEDICARE:

Medicare has released guidance on coverage for e-visits, virtual check-in visits, and expanded telehealth service coverage. According to Medicare.gov, e-visits allow a patient to talk to his/her provider using an online patient portal without going to the provider's office. These services can be furnished by doctors, nurse practitioners, physician assistants, licensed clinical workers, clinical psychologists, and/or therapists. Patients will pay 20% of the Medicare-approved amount for the services, and deductibles apply. For most telehealth services, the patient will pay the same amount that he/she would if he/she received the services in person. (https://www.medicare.gov/coverage/e-visits).

- Patient must provide verbal consent.
- Patients must be established patients of the practice.
- Communication must not be related to a medical visit within the past 7 days.
- Electronic communication cannot lead to a medical visit in the next 24 hours.

A virtual check-in allow[s] a patient to talk to a provider, like a physician, nurse practitioner or physician assistant, using a device such as a phone, integrated audio/video system, or captured video image without going to the provider's office. (https://www.medicare.gov/coverage/virtual-check-ins).

- Patient must provide verbal consent.
- Patients must be established patients of the practice.
- Communication must not be related to a medical visit within the past 7 days.
- Electronic communication cannot lead to a medical visit in the next 24 hours.

Medicare telehealth includes services such as office visits, psychotherapy, consultations, and certain other medical or health services that are provided by an eligible provider who isn't at the same location as the patient using an interactive 2-way telecommunications system (like real-time audio and video). (https://www.medicare.gov/coverage/telehealth). Previously telehealth services were only available to rural Medicare enrollees if they received telehealth services at a clinic, hospital or other medical facilities. They could not receive telehealth services from home.

- Patient must provide verbal consent.

"Clinicians can bill Medicare immediately for dates of service starting March 6, 2020. Telehealth services are paid under the Physician Fee Schedule at the same amount as in-person services. Medicare coinsurance and deductible still apply for these services." (https://www.cms.gov/newsroom/press-releases/president-trump-expands-telehealth-benefits-medicare-beneficiaries-during-covid-19-outbreak).

- 99211-99215 (outpatient hospital established patients visits)
- 99307-99310 (subsequent nursing facility care)

400 W. Wilson Bridge Rd, Ste. 120 | Worthington OH 43085
Phone: 866.668.3839 | Fax: 614.221.1989

MEDICAID:

The Ohio Departments of Mental Health and Addiction Services ("OhioMHAS") and Medicaid ("ODM"), in partnership with the Governor's Office, have developed emergency rules to expand and enhance telehealth options for Ohioans and their providers. Both rules will be in effect for 120 days and become effective on March 9, 2020, the date the Governor declared an emergency to exist. OhioMHAS's emergency rule, which will be codified in the Ohio Administrative Code at section 5122-2931, creates additional flexibilities in the agency's regulations governing interactive videoconferencing. ODM's emergency rule, which will be codified in the Ohio Administrative Code at section 5160-1-21, creates a new Medicaid telehealth rule that governs reimbursement policies for Medicaid providers rendering services through telehealth. While the OhioMHAS emergency rule applies to all community behavioral health providers certified by OhioMHAS, the ODM emergency rule only applies to individuals covered by Medicaid and their providers. ODM's emergency rule will be implemented by Medicaid fee for-service, Medicaid Managed Care Plans (MCPs), and MyCare Ohio Plans (MCOPs). There will be no limitations on practitioner or patient site locations for Medicaid reimbursable services delivered via telehealth with the exception of patients who are located in a penal facility or a public institution as defined in rule 5160:1-1-03 of the Administrative Code. Patients can be in their own homes and any other locations while accessing care, and practitioners can also deliver services from their offices, homes, and other locations.

- "Interactive videoconferencing" to include asynchronous activities that do NOT have both audio and video elements.
- Telephone calls
- Images transmitted via facsimile machine
- Email
- New patients (no initial face to face visit needed)
- Established patients
- Written consent from the patient is NOT required. Verbal consent that is document stating the patient acknowledges the risks of telehealth

MEDICAID BEHAVIORAL HEALTH:

Behavioral health services that can be delivered via interactive videoconferencing. All the Medicaid changes apply to Medicaid fee-for-service (FFS), Managed Care Plan (MCP), and MyCare Ohio Plan (MCOP) services. OhioMHAS certified entities can bill Medicaid for delivering the following services via telehealth:

- Evaluation and management of new and existing patients
  - *new and existing patients, not to exceed moderate complexity (i.e. evaluation and management levels 1-4)
- Psychiatric diagnostic evaluation
- Psychotherapy (individual, group, and family)
- Psychological testing
- Smoking cessation
- Community psychiatric supportive treatment (CPST)
- Therapeutic Behavioral Services (TBS) and psychosocial rehabilitation (PSR) (TBS group service is not included in the list of services that can be billed to Medicaid when delivered via telehealth
- RN and LPN nursing services
- SUD assessment
- SUD counseling (individual, group, intensive outpatient group, and partial hospitalization group)
- SUD case management

- Assertive community treatment (ACT)
- Intensive home-based therapy (IHBT)
- Peer recovery support
- Behavioral health crisis intervention
- SBIRT (screening, brief intervention and referral to treatment)
- Practitioner services rendered to individuals in SUD residential treatment
- Specialized Recovery Services (SRS)
- All associated add on codes
- Outpatient hospital behavioral health (OPHBH) services will be allowed to the same extent they are allowed for OhioMHAS-certified providers.
  Minimum required documentation to create a billing encounter must contain five pieces of data:
- Patient
- Provider of service
- Date of service
- Actual service (CPT or HCPCS code)
- Diagnosis to support performing the service (ICD-10)

HIPAA:

During the COVID-19 national health care emergency providers (APRNs, Physicians, PAs) may provide telehealth services through remote communications technologies. Technologies may not fully comply with the requirements of the HIPAA rules. (https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html).

The Office of Civil Rights (ORC) "will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency." (https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html).

- Technologies that MAY be used that do not meet HIPAA requirements:
  - Apple FaceTime
  - Facebook Messenger video chat
  - Google Hangouts video
  - Skype
- HIPAA compliant providers:
  - Skype for Business
  - Updox
  - VSee
  - Zoom for Healthcare
  - Doxy.me
  - Google G Suite Hangouts Meet
- You can NOT use:
  - Facebook Live
  - Twitch
  - TikTok
  - Instagram

*OAAPN recommends that HIPAA compliant technologies be used first and foremost.

COMMERCIAL PAYERS:

It is unclear how commercial payers will reimbursement for these services at this time. To date, the following payers recognize telehealth services:

- Cigna
  - CPT code 99241 will be reimbursed for all other synchronous real-time virtual visits when billed with Place of Service 11.
  - If the visit is related to COVID-19, ICD10 diagnosis codes (Z03.818 or Z20.828) are required to be billed and reimbursement will be without customer copay/cost-share.
  - If the virtual visit is not related to COVID-19, the ICD10 code for the visit should be billed and reimbursement will be made according to applicable benefits and related cost share.
    - No virtual care modifier should be billed.
  - This billing reimbursement and associated reimbursement applies to services submitted on CMS1500 claim forms or its electronic equivalent only.
- United Health Care
  - Through June 18, 2020
  - All eligible in-network medical providers
  - Synchronous virtual care (live videoconferencing) can do so
- Aetna
  - Through June 4th
  - If a provider requests testing related to COVID-19, Aetna will waive the patient's cost sharing.
  - Aetna Commercial patients pay $0 for covered telemedicine visits until June 4, 2020.
  - Medicare members can now see their providers virtually via telephone or video.

As you are aware, information regarding COVID-19 and our response to this crisis is changing daily, if not hourly. OAAPN is working tirelessly to keep our members apprised of information as it becomes available.