

Policy Update: CMS Proposes Rule Reducing 2024 Physician Pay

Lewis-Burke Associates LLC – July 19, 2023

The Centers for Medicare & Medicaid Services (CMS) recently issued the Calendar Year (CY) 2024 Physician Fee Schedule (PFS) proposed rule. In keeping with budget neutrality requirements, CMS set the CY 2024 conversion factor to \$32.75, a decrease of \$1.14 compared to the CY 2023 PFS conversion factor of \$33.89. According to CMS, the lower conversion factor incorporates the statutory required conversion factor of at least zero percent and the 1.25 percent increase in physician payments enacted by the [Consolidated Appropriations Act of 2023](#), which mitigated physician payment cuts in CY 2023 and 2024.

The *Consolidated Appropriations Act of 2023* delayed a 4 percent cut to physicians, mandated under Congressional Pay-As-You-Go rules, until 2025. The law provided for a 2.5 percent update for 2023 and 1.25 percent update for 2024. In this proposed rule, CMS assumed the expiration of additional congressional action. CMS is also proposing to implement a separate add-on payment for healthcare common procedure coding system (HCPCS) code G2211, which was originally finalized in the CY 2021 PFS final rule but delayed by Congress in the [Consolidated Appropriations Act of 2021](#) until 2024. The code, according to CMS, aims to manage the evaluation and management of complex patients. However, the agency expects implementation of the code to have a redistributive effect on other CY 2024 payments. In addition to the conversion factor and coding updates, below are additional policy adjustments in the proposal.

Telehealth

CMS is proposing to extend telehealth flexibilities that began during the COVID-19 public health emergency (PHE) and were extended for two years by the *Consolidated Appropriations Act of 2023*. These flexibilities include expanding of the scope of telehealth originating sites; paying Federally Qualified Health Centers (FMQHC) and Rural Health Clinics (RHC) for telehealth services at the rate established during the PHE; delaying the requirement for an in-person visit with the physician or practitioner within six months prior to initiating mental health telehealth services; and coverage and payment of telehealth services included on the *Medicare Telehealth Services List* until December 31, 2024.

In response to the CY 2021 PFS final rule stating that after the end of the PHE, teaching physicians must have a physical presence to bill for their services involving residents, the proposed rule would allow teaching physicians to continue using audio/video real-time communications technology when a resident furnishes Medicare telehealth services in all residency training locations through the end of CY 2024. CMS is seeking comment on other clinical treatment situations where it may be appropriate to allow the virtual presence of a teaching physician following CY 2024.

Behavioral Health

In line with the passage of the *Consolidated Appropriations Act of 2023*, CMS is proposing to provide Medicare Part B coverage and payment for the services of marriage and family therapists (MFTs) and mental health counselors (MHCs) and allow addiction counselors to enroll in Medicare as MHCs. Also included as part of the *Consolidated Appropriations Act of 2023*, CMS is proposing to establish new HCPCS codes for psychotherapy for crisis services that are furnished outside of an office setting, such as a home or mobile unit. CMS is also proposing to expand the types of practitioners that can bill for Health Behavior Assessment and Intervention (HBAI) services, which assist beneficiaries with emotional

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and psychosocial concerns that arise because of a medical condition and are unrelated to a mental health condition. In the proposed rule, CMS will allow clinical social workers, MFTs, and MHCs to provide HBAI services in addition to clinical psychologists.

Social Determinants of Health

CMS is proposing coding and payment updates for services that address health-related social needs in alignment with the Department of Health and Human Services (HHS) Social Determinants of Health Action Plan and the implementation of the Biden-Harris Cancer Moonshot. The proposed updates aim to better account for resources involved in patient-centered care involving a multidisciplinary team of clinical staff and other auxiliary personnel. In order to provide practitioners with more tools to assist patients with serious illnesses navigate the healthcare system or remove health-related social barriers that are interfering with the practitioners' ability to execute a plan of care, CMS is proposing to pay for Community Health Integration, Social Determinants of Health (SDOH) Risk Assessment, and Principal Illness Navigation services to account for the involvement of community health workers, care navigators, and peer support specialists when furnishing care alongside a clinician. CMS also clarifies that community health workers, care navigators, peer support specialists, and other auxiliary personnel may be employed by a Community Based Organizations (CBO) if there is mandated supervision by the billing practitioner for such services. CMS also proposes allowing the inclusion of SDOH Risk Assessments as an optional part of an annual wellness visit.

Comments on the proposed rule are due by **September 11, 2023**.

Sources and Additional Information:

- The CMS fact sheet on the proposed rule is available at <https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2024-medicare-physician-fee-schedule-proposed-rule>.
- The full proposed rule is available at <https://public-inspection.federalregister.gov/2023-14624.pdf>.