

## **Summary of Changes Related to Hospital Billing for Outpatient Service Rendered to Patients in Their Homes as Detailed in the CMS COVID-19 Interim Final Rule, CMS-5531-IFC, Published on April 30, 2020**

### **Provider-Based Departments & Excepted/Non-Excepted Status:**

Before delving into the three billing scenarios below, we will first provide an overview of the CMS 1135 Waiver “Hospital Outpatient: Use of Provider-Based Departments as Temporary Expansion Sites” – which serves as the foundational policy for which the billing scenarios detailed later in this document are built. The Temporary Expansion Sites waiver allows hospitals, for the duration of the COVID-19 Public Health Emergency (PHE), to temporarily relocate existing on or off-campus provider-based departments to new locations. Per CMS, any temporary relocation(s) must not be in conflict with your state’s emergency preparedness or pandemic response plans. Also, all conditions of participation (CoPs) not waived by CMS are still required to be met at the temporary expansion site(s). There are no geographical restrictions on where these temporary expansion sites can be located and the sites themselves can previously have been clinical or non-clinical spaces. Of most importance for the billing scenarios noted below, a patient’s own home may now be considered a temporary expansion site of a provider-based department.

Under current CMS policy, provider-based departments (PBDs) are granted either excepted or non-excepted status. For a complete overview of how this determination is made, please see the “Policy Background” sub-section of the CMS document “Extraordinary Circumstance Relocation Exception Guidance for an Off-Campus Provider Based Department” linked below. In the context of the COVID-19 Public Health Emergency, it is important to note that the criteria governing excepted or non-excepted status has not been changed or waived by CMS.

Excepted or non-excepted status is important because it directly affects reimbursement. PBDs granted excepted status are reimbursed the full Outpatient Prospective Payment System (OPPS) rate. Items and services billed from these excepted PBDs are required to have modifier PO appended. PBDs that are non-excepted are reimbursed at the lesser Physician Fee Schedule (PFS) rate rather than the OPPS rate. Items and services billed from non-excepted PBDs are required to have modifier PN appended.

Generally, when an excepted off-campus or on-campus PBD relocates to a new location, the PBD will lose its excepted status and become non-excepted. For the duration of the PHE, CMS will be extending its extraordinary circumstances policy to allow excepted off-campus and on-campus PBDs to apply for an exemption allowing them to retain their excepted status should they choose to relocate during the COVID-19 PHE. The application process for the exemption is outlined in detail on pgs. 41-43 of the Interim Final Rule CMS-5531-IFC linked below. CMS notes that hospitals do not need to wait for the exemption application to be approved in order to start billing for services rendered at relocated excepted PBDs. Hospitals should continue to bill items and services provided in these relocated excepted PBDs with modifier PO. However, if for some reason a hospital’s extraordinary circumstances application were to be denied, any claims previously submitted would need to be corrected and rebilled with modifier PN (indicating the services were rendered at a non-excepted PBD).

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Hospitals that choose to relocate an already non-excepted PBD do not need to submit an extraordinary circumstances exception application. Non-excepted PBDs will retain their non-excepted status even if temporarily relocated due to the PHE. Items and services rendered by non-excepted PBDs should continue to be billed with modifier PN.

We have included the CMS table below that outlines the relocation reimbursement methodologies for excepted and non-excepted PBDs:

Provider-Based Department (PBD) Type	Non-PHE Payment Policy Before Relocation	Non-PHE Payment Policy if PBD Relocates Off-Campus (Absent Extraordinary Circumstance Approval)	Payment Policy During PHE Following Off-Campus Relocation
On-Campus PBD	Full OPPS	PFS-equivalent (treated as new location)	Full OPPS*
Excepted* Off-Campus PBD	Full OPPS	PFS-equivalent (treated as new location)	Full OPPS*
Non-Excepted Off-Campus PBD	PFS-equivalent	PFS-equivalent	PFS-equivalent
New (since pandemic) Off-Campus PBD	PFS-equivalent	PFS-equivalent	PFS-equivalent

\*PBD department relocations would need to receive extraordinary circumstances relocation approval and the relocation must not be inconsistent with state emergency preparedness or pandemic plan. Once the COVID-19 PHE ends, these relocated PBD would be expected to shut down or return to their original location; otherwise, they would be paid the PFS-equivalent rate unless, at the discretion of the CMS Regional Office, they are granted a permanent extraordinary circumstances relocation exception under our normal policy. We note that, during the COVID-19 PHE, hospitals would have flexibility to do partial relocations, and relocate their PBD to multiple new off-campus locations, including the patient's home.

### Furnishing Outpatient Services in Temporary Expansion Locations of a Hospital (Including the Patient's Home):

Now that we have reviewed the policy that allows hospitals to relocate provider-based departments to temporary expansion sites (including the patient's home), let's cover the services that CMS states hospitals can bill in these temporary locations. Within the Interim Final Rule, CMS notes that these services will fall into one of the 3 categories/billing scenarios listed below:

1. Hospital outpatient therapy, education, and training services that can be furnished other than in-person, and are furnished in a temporary expansion location
2. Hospital outpatient clinical staff services furnished in-person to the beneficiary in a temporary expansion location
3. Hospital services associated with a professional service delivered by telehealth

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Below we have provided a detailed explanation for each of the 3 billing scenarios as outlined in CMS-5531-IFC. All of the billing scenarios detailed below require: 1) the patient be a registered outpatient of the hospital, 2) all Medicare CoPs that have not been waived are met at the temporary expansion site (including the patient's home), 3) all required levels of supervision are still provided and 4) documentation in the medical record supports the medical necessity of the service. It is important to note that billing policies detailed below are **retroactively effective back to March 1st 2020**.

### **1<sup>ST</sup> Category/Billing Scenario: Hospital outpatient therapy, education, and training services that can be furnished other than in-person, and are furnished in a temporary expansion location (including the patient's home):**

CMS states it believes that there are certain therapy, education and training services that can be effectively furnished by clinical hospital staff through the use of telecommunication technology. CMS recognizes that the clinicians who typically render these services (including counselors, nurses, and registered dietitians) are often unable to bill Medicare directly for these services. These services are traditionally billed for by hospitals when provided by hospital employed clinicians and there are generally no separate professional component charges for these services.

To ensure beneficiaries continue to receive these therapy, education and training services, CMS will now allow hospitals to provide and bill for these services when rendered to patients in their homes so long as the patient's home is made provider-based to the hospital.

It is important to note that although these services can be furnished using telecommunications technology, these services do not meet the CMS definition of a telehealth service and should not be billed as such (do not append modifier 95 to these services). Hospitals should bill for these services as they normally would if rendered directly in the hospital provider-based department, with modifier PO or PN attached as appropriate.

In the document entitled "Example of Hospital Outpatient Therapy, Counseling and Education Services that May be furnished to a Beneficiary in the Hospital by Remote Hospital Clinical Staff Using Telecommunication Technology During the COVID-19 Public Health Emergency" CMS has outlined the applicable CPT and HCPCS codes that fall in the category of "therapy, education and training services". CMS notes that this list may not be all-encompassing and that they will be reviewing and updating the list periodically as needed.

### **2<sup>nd</sup> Category/Billing Scenario: Hospital outpatient clinical staff services furnished in-person to the beneficiary in a temporary expansion location (including the patient's home):**

The second category of services are those that are still required to be rendered in-person but CMS acknowledges can also be furnished directly by hospital clinical staff without the need for any distinct professional work of a physician. As noted by CMS, some examples of such services include wound care, chemotherapy administration and other drug administration services.

To again ensure continuity of care, CMS is allowing hospitals to render these services in-person in temporary expansion sites (including the patient's home) and to bill for these services directly as hospital PBD services. Modifiers PO or PN should be applied as appropriate.

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CMS has not published a list of CPT or HCPCS codes that would fall within this second category of services. Remember, all conditions of participations (CoPs) not waived by CMS must be met at the temporary expansion site (including the patient's home). Each hospital will need to review and decide to what extent hospital clinical services can be safely rendered in-person in a patient's home and ensure they are not breaching any non-waived CoPs when rendering such services.

CMS also cautioned that hospitals should check to see if a patient is currently under a Home Health Agency (HHA) plan of care. Per CMS, if the patient has a current home health plan of care, the hospital should only provide services to the patient that cannot be furnished directly by the HHA.

### **3<sup>rd</sup> Category/Billing Scenario: Hospital services associated with a professional service delivered by telehealth:**

Lastly, through the IFC, CMS is expanding the scenarios for which the telehealth originating site facility fee, HCPCS code Q3014, is permissible to be billed. Prior to the IFC, hospitals were only able to bill HCPCS Q3014 if the patient was physically present at the hospital while receiving a professional telehealth service from a provider located at a separate distinct site.

In the IFC, CMS acknowledged that hospitals often provide administrative and clinical support for professional telehealth services, even when the patient is not physically present at the hospital. Therefore, CMS is now allowing hospitals to report HCPCS Q3014 to capture hospital supportive services provided when a patient receives a professional telehealth service in a temporary expansion site (including the patient's home) by a provider who would ordinarily render such a service within the hospital's outpatient department(s).

Although not explicitly stated in the IFC, in this 3rd scenario you are again treating the patient's home as a temporary expansion site of the hospital PBD. Therefore, it is our interpretation modifiers PN or PO would need to be appended to Q3014 when utilizing this waiver flexibility. We have sent an inquiry to CMS to clarify this point. We will provide updated guidance if necessary once a response from CMS is received.

### **References:**

Extraordinary Circumstance Relocation Exception Guidance for an Off-Campus Provider Based Department (in accordance with regulations at 42 CFR 419.22 and 419.48):

<https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/Downloads/Subregulatory-Guidance-Section-603-Bipartisan-Budget-Act-Relocation.pdf>

CMS-5531-IFC:

<https://www.cms.gov/files/document/covid-medicare-and-medicaid-ifc2.pdf>

Example of Hospital Outpatient Therapy, Counseling and Education Services that May be furnished to a Beneficiary in the Hospital by Remote Hospital Clinical Staff Using Telecommunication Technology During the COVID-19 Public Health Emergency:

<https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>