



AMERICAN COLLEGE OF GASTROENTEROLOGY

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April 3, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services

Dear Administrator Verma:

The American College of Gastroenterology (ACG) thanks you and the Centers for Medicare & Medicaid Services (CMS) for taking swift action to remove regulatory burdens and barriers that inhibit patient access during the 2019 Novel Coronavirus (COVID-19) public health emergency (PHE). These efforts, combined with the broader federal, state, and local responses will help to protect Americans and curb the pandemic. Specifically, we appreciate the recently released *Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency* (CMS-1744-IFC) interim final rule with comment period (the IFC). We will provide more comprehensive comments in response to the IFC separately.

ACG is a physician organization representing gastroenterologists and other gastrointestinal (GI) specialists. Founded in 1932, our organization represents over 15,000 members providing gastroenterology specialty care. The primary activities of ACG have been – and continue to be – promoting evidence-based medicine and optimizing the quality of patient care. As care delivery continues to evolve in light of this pandemic, telehealth services play a significant role to ensure continued access to care.

CARES Act Provides Regulatory Flexibility on Telehealth Services

We recognize that CMS developed the IFC prior to passage of the recently enacted *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, which included several sections that expand CMS' authority in several key areas, namely, section 3703, which significantly expands Medicare telehealth flexibilities during the COVID-19 PHE. Specifically, the CARES Act provides authority to waive or modify all of the statutory telehealth requirements listed at section 1834(m) of the Social Security Act. In addition, when making this change, Congress explicitly removed the requirement at 42 USC 1320b-5(b)(8)(B), which restricted telehealth to the use of telephones that have audio and video capabilities that can be used for two-way, real-time interactive communication.

Expansion for Traditional E/M Services are Necessary for Audio-Only Devices (CPT Codes 99201-99215)

As you know, many Medicare beneficiaries do not have telephones that have both audio and video capabilities, or do not have the ability to leverage such capabilities even if they have these capabilities. While we appreciate that CMS will now permit prolonged, audio-only communication through CPT codes 98966-98968 and 99441-99443, these codes do not reflect the level of work for the evaluation and management services that many of our members need to provide to beneficiaries via audio-only telephone communications. This is a barrier to care that applies beyond gastroenterologists. Swift action is necessary. This expanded authority will be welcomed by the broader provider community, and more importantly, to Medicare beneficiaries. Medicare beneficiaries are at higher risk of contracting COVID-19. It is crucial that CMS make this change to protect our Medicare patients.

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ACG reiterates its support for CMS' continued efforts to address the COVID-19 PHE and offer our support in implementing new strategies to ensure continued patient access to care. Should you have any questions regarding our comments, please do not hesitate to reach out to Brad Conway, Vice President of Public Policy, Coverage & Reimbursement, at BConway@gi.org or 301.263.9000.

Sincerely,



Mark B. Pochapin, MD, FACP
President
American College of Gastroenterology