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CMS Introduces Changes to POS Codes That Will Affect Telehealth Billing

Note: This article was updated on January 26, 2022, for clarification purposes.

Recently, the Centers for Medicare & Medicaid Services (CMS) introduced a new place-of-service (POS) code and revised another POS code in an effort to improve the reporting of telehealth services provided to patients at home as well as the coverage of telebehavioral health. POS codes are two-digit codes reported on Form CMS-1500 to indicate the setting in which a service was provided.

The new POS code is POS code "10" and is for telehealth services provided to a patient who is in their home. The revision to the existing POS code was to POS code "02" for telehealth services provided to a patient outside their home. The existing definition of POS code 02 simply indicates that a telehealth service was provided but does not identify where the patient was located when the doctor was providing the service.

POS Code 10

In response to provisions in the 2021 Consolidated Appropriations Act, the proposed 2022 Medicare Physician Fee Schedule (MPFS) expanded the scope of mental health telehealth services, which in turn calls for a new code. POS code 10 was created to accommodate this expansion.

In its interpretation of the [Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act](#), the MPFS removed geographic limitations for treating substance use disorders (SUDs) and concurrent mental health disorders and allows patient homes to be an originating site for telehealth. That means patients may be treated for substance use disorders and an overlapping behavioral health disorder at

home even after the COVID-19 public health emergency (PHE) ends.

The 2021 Consolidated Appropriations Act extended the coverage further to allow the home to be an originating site for the diagnosis, evaluation, and treatment of all mental or behavioral health disorders—not just those concurrent with a SUD. This rule goes into effect the day after the Public Health Emergency ends. At that time, to be able to receive telebehavioral services at home, patients must first have an in-person visit with the provider within the six months before the first telebehavioral visit. However, the following are exceptions to this in-person rule: when (a) the patient is located at a qualifying originating site in an eligible geographic area (e.g., a practitioner office in a rural Health Professional Shortage Area) and the arrangement meets the statutory requirements for telehealth service coverage under Medicare; (b) the in-person exam does not apply to telehealth treatment of a diagnosed SUD or concurrent mental health disorders (the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act already made the patient's home an eligible originating site for such services); or (c) the patient and practitioner agree the benefits of an in-person, non-telehealth service within 12 months of the mental health telehealth service are outweighed by risks and burdens associated with an in-person service, and provided the basis for that decision is documented in the patient's medical record, the in-person visit requirement will not apply for that particular 12-month period.

POS Code 02

Unlike POS Code 10, the modified POS Code 02 will be affected by the end of the COVID-19 PHE, at which point Medicare will no longer cover telehealth services from a patient's home. Thus it is important to distinguish whether the telehealth services were provided inside the patient's home or outside the patient's home.

These changes to the POS codes have implications for telehealth billing during and after the COVID-19 PHE. According to CMS, an "originating site" is the location where a Medicare patient gets physician or practitioner medical services through a telecommunications system. The patient must go to the originating

site for services located in either (1) a county outside a Metropolitan Statistical Area or (2) a Health Professional Shortage Area in a rural census tract.

Patient homes are typically not eligible originating sites. However, during the COVID-19 PHE, POS code 02 was expanded to include any originating site, essentially making Medicare cover telehealth services delivered in all corners of the country, including in patient homes.

That will change when the COVID-19 PHE ends, after which providers will revert to using POS code 02 for the majority of telehealth services that must be performed at an eligible originating site, no longer including patient homes. Although Congress might consider enacting legislation to expand access to telehealth by eliminating the originating site requirement or making patient homes a permanent originating site, no formal action has been taken so far. In the absence of any new legislative development, providers will mostly use POS code 02 for telehealth services after the COVID-19 PHE.

Takeaways

The definition for the new POS code 10 and the revision to the existing definition for POS code 02 became effective on January 1, 2022, in the National POS code set; however, Medicare contractors have received instructions regarding how to process claims with these codes starting April 4, 2022. Please note that private payers may have a different date on which they will begin to process claims with these codes.

In light of impending changes to the POS codes mentioned above, providers should contact their major payers to ensure they are ready to accept those codes. If your entity would like to learn more about telehealth billing, reach out to one of the authors of this article. You can also visit our [Health Law Matters blog](#) for more insight into legal issues impacting the health care industry.

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