



# Virtual Office Hours

*Presented by*

The Southwest Telehealth Resource Center, the Northwest Regional Telehealth Resource Center, Arizona Telemedicine Program, and the Arizona Department of Health Services

# **September 21, 2021**

# **Proposed Rule Office Hours**

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# Today...

- Rules and Comments 101
- Quick remind/review of upcoming proposed changes
  - Telehealth codes
  - FQHCs/RHCs mental health visit changes
  - Mental health telehealth services and the 6-month requirement
  - Audio-only for mental health services
  - Supervision by virtual means
  - Remote Therapeutic Monitoring
  - Chronic & Principal Care Management
  - Chronic Pain Management



# Calendar Year 20xx Physician Fee Schedule Proposed and Final Rules 101

Proposed Rule  
released  
~ July

Comments due  
~ September  
(~ 60 days)

Final Rule  
released  
~ November

Goes into effect  
January 1, 20XX

CY2022 PFS FR

If you teach a  
person to...



# The Steps

1. Know when the “rules” are released
  - Subscribe to CMS’ Electronic Mailing Lists <https://www.cms.gov/Outreach-and-Education/Outreach/FFSProvPartProg/Electronic-Mailing-Lists>
2. Download/save the version of the rule that is posted in the Federal Register
  - <https://www.govinfo.gov/content/pkg/FR-2021-07-23/pdf/2021-14973.pdf>
3. Depending on your goals, time, obsessiveness, etc. consider a Word document with the sections of interest (IF ONLY CMS included a hyperlinked table of contents, right?)


- I. Major Title/Topic
  - A. Subtopic
    1. Then
      - a. Then
        - 1) Actually it's (1)
          - a) Actually it's (a)



# Pre and Post Pub in the Federal Register



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 This document is scheduled to be published in the Federal Register on 07/23/2021 and available online at [federalregister.gov/d/2021-14973](https://www.federalregister.gov/d/2021-14973), and on [govinfo.gov](https://www.govinfo.gov) de: 4120-01-P]

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 403, 405, 410, 411, 414, 415, 423, 424, and 425**

**[CMS-1751-P]**


**RIN 0938-AU42**

**Medicare Program; CY 2022 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-payment Medical Review Requirements.**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

**ACTION:** Proposed rule

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 **39104** Federal Register / Vol. 86, No. 139 / Friday, July 23, 2021 / Proposed Rules

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

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**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

**ACTION:** Proposed rule.

**SUMMARY:** This major proposed rule addresses: Changes to the physician fee

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1751-P, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1751-P, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

**FOR FURTHER INFORMATION CONTACT:**  
DivisionofPractitionerServices@cms.hhs.gov, for any issues not identified below.

Michael Soracoe, (410) 786-6312, for issues related to practice expense, work RVUs, conversion factor, and PFS specialty-specific impacts.

Larry Chan, (410) 786-6864, for issues related to potentially misvalued services under the PES.

Heather Hostetler, (410) 786-4515, and Elizabeth Truong, 410-786-6005, for issues related to removal of select national coverage determinations.

Sarah Fulton, (410) 786-2749, for issues related to Appropriate Use Criteria for Advanced Diagnostic Imaging (AUC); and Pulmonary Rehabilitation, Cardiac Rehabilitation and Intensive Cardiac Rehabilitation.

Rachel Katonak, (410) 786-8564, for issues related to Medical Nutrition Therapy.

Fiona Larbi, (410) 786-7224, for issues related to the Medicare Shared Savings Program (Shared Savings Program) Quality performance standard and quality reporting requirements.

Janae James, (410) 786-0801, or Elizabeth November, (410) 786-4518, or SharedSavingsProgram@cms.hhs.gov, for issues related to Shared Savings Program beneficiary assignment, repayment mechanism requirements, and benchmarking methodology.

Naseem Tarmohamed, (410) 786-0814, or SharedSavingsProgram@cms.hhs.gov, for inquiries related to Shared Savings Program application,

# More Steps

4. Use the highlight feature in Adobe to identify the text of most interest to you and get to know CTRL F.
5. Do not tear out your hair with all the references to other statutes (e.g., CFR, CAA, SSA – oh my)!!
6. Decide if you will submit comments – it is SO easy! Will it be just you or will you submit for a group of individuals or stakeholders?
7. If with other stakeholders, make it easy – worksheet, just the relevant rule pages, facilitated meeting for feedback and real-time notes, shared document, etc.



# One Approach...


As a [PSYCHOLOGIST, SCIENTIST, EDUCATOR, GRADUATE STUDENT or PATIENT] who lives in [CITY, STATE], I am pleased to join the American Psychological Association (APA) in providing comments on the Proposed Rule on the 2022 Physician Fee Schedule released on July 13, 2021 by the Centers for Medicare and Medicaid Services (CMS).

With the COVID-19 pandemic both exacerbating and highlighting the vast unmet need for mental and behavioral health services, I ask CMS and the Biden Administration to close existing gaps in care and facilitate broader access to care for all patients in need of these services. Like my psychologist colleagues, I will continue to address the mental health impact of the pandemic long after the actual pandemic's end, and we hope CMS will continue to serve as an ally and resource in these efforts to ensure behavioral health care continues to be available for all who need it.



# Comments

Comments on current CY2022 PFS Proposed Rule:  
<https://www.regulations.gov/document/CMS-2021-0119-0053>

 Comments Received  
**35,791**

- Refer to the regulation title and the CMS number, listed at the beginning of the regulation (e.g., CY 2022 Physician Fee Schedule Proposed Rule CMS-1751-P).
- Clearly indicate if you are for, or against, the proposed regulation or some part of it and why. CMS regulatory decisions are based largely on law, clinical and scientific evidence, and program experience. CMS reviewers look for reasoning, logic, and good science in the comments they evaluate.
- Include a copy of articles or other references that support your comments.

# Telehealth Codes and the Proposed Rule

- Category 1 and 2 codes (the “permanent” ones)
  - No new codes → “We found that none of the requests we received by the February 10th submission deadline met our Category 1 or Category 2 criteria for permanent addition to the Medicare telehealth services list.” Check Table 8 and Table 9 for those proposed but rejected.
- Interim codes (available through the end of the public health emergency)
  - No new codes added (See Table 10)
- Category 3
  - “We propose to retain all services added to the Medicare telehealth services list on a Category 3 basis until the end of CY 2023.”



# FQHCs/RHCs Mental Health Visit Changes

aka Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)—Telecommunications Technology (pp. 39235-8)



# Implementation of the CAA\* Provisions

- CMS is proposing that, unless the service is otherwise excluded “...the billing physician or practitioner must have furnished an in person, non-telehealth service to the beneficiary within the 6-month period before the date of the telehealth service.” This applies to both the initial and any subsequent telehealth services for purposes of diagnosis, evaluation, or treatment of a mental health disorder unless it falls under the narrow exclusions as listed on p. 39145 of the CAA - SEC. 123. EXPANDING ACCESS TO MENTAL HEALTH SERVICES FURNISHED THROUGH TELEHEALTH (see below).
  - “(ii) CLARIFICATION.—This subparagraph shall not apply if payment would otherwise be allowed— “(I) under this paragraph (with respect to telehealth services furnished to an eligible telehealth individual with a substance use disorder diagnosis for purposes of treatment of such disorder or cooccurring mental health disorder); or “(II) under this subsection without application of this paragraph.”.

# Payment for Medicare Telehealth Services Furnished Using Audio-Only Communication Technology (pp. 39147-9)

- Amend the regulations to allow the home of a beneficiary as an originating site for diagnosis, evaluation, or treatment of a mental health disorder for services provided on or after the first day after the end of the PHE.
- Will also require the in-person, non-telehealth visit furnished within six months for these audio-only communications.
- Must have two-way, audio/video telehealth capacity and only use audio-only if patient is unable to use, does not wish to use, or does not have access to two-way, audio/video technology.



# Expiration of PHE Flexibilities for Direct Supervision Requirements

- “...include immediate availability through the virtual presence of the supervising physician or practitioner using real time, interactive audio/video communications technology without limitation after the PHE for COVID–19, or if we should continue the policy in place for a short additional time to facilitate a gradual sunset of the policy.”

# Valuation of Specific Codes (pp. 39150-39203)

- Remote Therapeutic Monitoring (RTM) – new codes

Remote Physiologic Monitoring (7 codes)	Remote Therapeutic Monitoring (5 codes)
Billed by: physicians and non-physician practitioners (e.g., nurse practitioner, physician assistant)	Billed by (proposed): nurses and physical therapists
Evaluation and management (E/M) services	General medicine codes
“...requires that data be physiologic and be digitally uploaded.”	“...health conditions, including respiratory system status, therapy (medication) adherence, and therapy (medication) response, and as such, allow non-physiologic data to be collected. Reportedly, data also can be self-reported as well as digitally uploaded.”
“...for both sets of codes, the device used must meet the FDA definition of a medical device as described in section 201(h) of the Federal Food, Drug and Cosmetic Act (FFDCA).”	

# Valuation of Specific Codes - Continued (pp. 39150-39203)

- Chronic and Principal Care Management – three new codes and two revised codes

**TABLE 12: CY 2022 CCM/CCCM/PCM Proposed Values**

CPT Code	Short Descriptor	Current Work RVU	RUC-recommended Work RVU	CMS Proposed Work RVU
99490	CCM clinical staff first 20 min	0.61	1.00	1.00
99439	CCM clinical staff each add 20 min	0.54	0.70	0.70
99491	CCM physician or NPP work first 30 min	1.45	1.50	1.50
99X21	CCM physician or NPP work each add 30 min	new	1.00	1.00
99487	CCCM clinical staff first 60 min	1.00	1.81	1.81
99489	CCCM clinical staff each add 30 min	0.50	1.00	1.00
99X22 (currently G2064)	PCM physician or NPP work first 30 min	new	1.45	1.45
99X23	PCM physician or NPP work each add 30 min	new	1.00	1.00
99X24 (currently G2065)	PCM clinical staff first 30 min	new	1.00	1.00
99X25	PCM clinical staff each additional 30 min	new	0.71	0.71



# Valuation of Specific Codes - Continued (pp. 39150-39203)

- Chronic Pain Management – new codes and services
  - Separate coding and payment for medically necessary activities involved with chronic pain management and achieving safe and effective dose reduction of opioid medications when appropriate

“We believe it is important to highlight the role of a person-centered approach to pain care.”

“We believe that creating separate or add-on payment for care and management for people with pain might provide opportunities to better leverage services furnished using telecommunications technology and non face-to-face care while expanding access to treatment for pain.”

**Thank you!**

# Thank you for joining us today!

Please check our websites for upcoming events

<http://www.telemedicine.arizona>