The Latest COVID-19 Reimbursement and Regulatory Changes Impacting Emergency Physicians

Michael Granovsky MD, CPC, FACEP
President, LogixHealth
We are both the safety net and the front line now.
Topics Covered

- Funding sources
  - Grants
  - Loans
  - Cash flow assistance
- Telemedicine
- CMS regulatory relief & decreased administrative burden for multiple programs
- Billing Specifics
  - Smart modifier use
COVID Statistics for This Week

Discretionary customer:
Scared of hospital, less activity, telemedicine

Volume Data
- Nationwide ED volume ↓ 50% this week
- Urgent Cares ↓ 71%
- Peds ED ↓ 77%
- ED/Urgent Care opening tents are recapturing volume

PPE and higher complexity diagnostic considerations slow throughput. Payroll pressure is upon us.
COVID Visits: Volume and Acuity Trends

- Baseline April 20% ED visits COVID related nationwide
- Surge case studies:
  - As surge occurs all discretionary and now some moderately symptomatic patients stay home
  - COVID percentage goes from baseline 20% to 60% - 70%
  - Net volume may actually go down further
  - However acuity skyrockets
    - Admit rate increase 23% to 39%
    - Average RVU per patient up 20%
      - Critical care frequently doubles
How to Obtain Funding for My Practice
Types of Funding Available

- Funding hierarchy
  - Grant
  - Forgivable loan
  - Loan (favorable terms)
  - Loan (bad terms – high interest rate)
  - Cash flow assistance
Paycheck Protection Program Overview

- The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)- Referred to as phase 3
  - Discussion of phase 4 and phase 5 (hurdles)
- SBA (Small Business Administration) section 7(a)
  - Paycheck Protection Program (PPP)
- Loans are available through June 30, 2020
  - First come first serve
  - $349B has run out? Congressional “top off” provided
- Contact your current bank first
  - Initially few banks writing loans with unaffiliated clients- now slowly increasing
  - Faster with own bank
Paycheck Protection Program
3 Basics Components

Maximum Amount
- 2.5 X monthly payroll
  - Capped at $10m

Forgivable Amount
- 8 weeks after receiving funds show records to lender to qualify for a forgivable amount

Workforce Requirements
- Forgivable amount subject to maintaining your work force
Paycheck Protection Program Details

- **Eligibility**
  - Group < 500 employees
  - Independent contractors - typically apply individually

- **Terms**
  - No prepayment penalty
  - No personal guarantee required
  - Lender has NO recourse against the borrower
    - loan used for appropriate purpose
Paycheck Protection Program
Maximum Amount and Forgivable Portion

Maximum Amount:
- 2.5 X monthly payroll < $10M
- Data from prior 12 months OR calendar year 2019
- Seasonal ED: 2.15.2019 or 3.1.2019 through 6.30.2019

Overview Forgivable Portion:
- Qualifying expenses made during 8 week forgiveness period
- Federal government pays bank the forgiven amounts
PPP Forgivable Amount Calculation Detail

- Payroll costs for 8 weeks: salary, wages, subject to a $100,000 per employee annual prorated cap
  - \(8/52 \times $100k = $15,384.62\)
- 75% of total forgivable amount must be for payroll

Additional Qualifying expenses

- Health insurance
- Retirement plan contributions
- State and local payroll taxes
- Interest payments for pre-existing debt
- Rent and Utilities
100K ED: 30 physicians > $100K/year; 10 APPs @ $90K/year

Physician loan forgiveness amount:
- Annual Physician payroll: ($100,000) X (8/52) = $15,385
- (30 Physicians) X ($15,385) = $461,550 + benefits

APP loan forgiveness amount:
- Annual APP payroll: ($90,000) X (8/52) = $13,846
- (10 APPs) X ($13,846) = $138,846+ benefits

The Total Eligible Payroll to be Forgiven:
$ 461,550+ $138,846 = $600,396 + benefits
The Not Forgiven Amount

- Unforgiven amount: Payback Terms
  - Deferment 6 months (interest accrues)
  - Interest Rate 1%
  - Term 2 years

---

**Loan Repayment Calculation**

Qualified for $1m and forgivable amount is only $900k
100k Not Forgiven: 24 Monthly Payments $4,210.21
Total payback: $101,045
Favorable
Question: The amount of forgiveness of a PPP loan depends on the borrower’s payroll costs over an eight-week period; when does that eight-week period begin?

Answer: The eight-week period begins on the date the lender makes the first disbursement of the PPP loan to the borrower. The lender must make the first disbursement of the loan no later than ten calendar days from the date of loan approval. Treasury FAQ Issued April 14th #20
The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of $100,000. Does that exclusion apply to all employee benefits of monetary value?

**Answer:** No. The exclusion of compensation in excess of $100,000 annually applies only to cash compensation, and does not apply to:

- Employer contributions to defined-benefit or defined-contribution retirement plans
- Provision of group health care coverage
- Payment of state and local taxes assessed on compensation of employees
Beware: Reduction In Loan Forgivable Amount

- Feds want employers to maintain workers

- **Layoffs:** Amount forgiven is reduced proportional to the reduction in the number of Full Time Equivalent employees

- **Wage Reductions:** The forgiveness amount is reduced to the extent that employee reduction in salary > 25%. Salary reduction amount in excess of 25% would be subtracted from the forgiveness amount
Small Business Administration
Economic Injury Disaster Loan Program

- Direct SBA program ≤ 500 employees
- Loans up to $2 million (not grants and not forgiven)
  - Under $200k no personal guarantee
- $11.4B in applications for a $10B program
- Can pay owners for work but not profit distribution
- 3.75% interest and payback is typically 30 years
  - Monthly debt service on $2m = $9,262
- To apply: https://covid19relief.sba.gov/#/
Loan Coordination Issues: PPP and EIDL

PPP maximum amount:
Lesser of: $10m or 2.5 X average monthly payroll + outstanding disaster loan amount

- You can use PPP loan to refinance an EIDL
- The use of the loans cannot be for duplicative costs

“You cannot use your EIDL for the same purpose as your PPP loan.
For example, if you use your EIDL to cover payroll for certain workers in April, you cannot use PPP for payroll for those same workers in April, although you could use it for payroll in March or for different workers in April.”

U.S. Senate Business Owners Guide
Medicare Accelerated and Advanced Payment Program

- Temporary assistance with cash flow
- Group receives 100% of Medicare payment amount for 3 months (Q4 2019) up front
- Payments issued in 7 days by your MAC
- Recoupment begins on day 121 and required to be paid down by day 210
  - Submit claims as usual and after 120 days recoupment begins and each claim submitted will be used to off-set the balance
  - Process is automatic
  - Unpaid balance has an interest rate of 10.25% (Senate letter protesting action pending)
Medicare Accelerated Payment Form

CMS Accelerated Payment Fact Sheet

- Check box ("Delay in provider/supplier billing process of an isolated temporary nature....")

- State that the request is for an accelerated/advance payment due to the COVID19 pandemic.
$100B Public Health and Social Services Emergency Grant Relief Fund

- $30B Bucket: Provider Grant funds sent out - April 10th
  CMS uses the term “provider” – means doctors and hospitals in this fund together

- Remaining $70B
  - Uninsured patients
    - Set at Medicare rates - no balance billing
  - Non Medicare Providers - Pediatrics
  - Much still up to the discretion of Secretary Azar
Funds sent by ACH electronic deposit to most groups April 10th - typically from UnitedHealthcare

- Represents a grant - no payback required
- Provided at the TIN level
- Proportional to your TIN’s 2019 Medicare allowable/$484B
- Most groups 6-7% of annual traditional Medicare money which = roughly 7 days of payroll costs
$30 Billion Relief Fund Free but Has Administrative Requirements

- Must sign an attestation within 30 days of receiving payment
- Confirms receipt of the funds and agree to the terms and conditions of payment
  - Some details still evolving
- The portal went live yesterday (4.16)
  - https://covid19.linkhealth.com/#/step/1
    - TIN, Exact payment amount, last 6 of bank account #
- Can download Initial Terms and Conditions at:
General Relief Funds

- Groups receiving more than $150,000 in overall government funds - Quarterly Reporting

- Within 10 days following the end of calendar quarter, must submit a report to HHS including:
  - Total amount of funds received from HHS from any of the three COVID-19 stimulus bills enacted to date, not just CARES Act funding
  - A list of the projects or activities for which large covered funds were expended or obligated
  - The estimated number of jobs created or retained by the project or activity, where applicable
Telemedicine
Telemedicine refers to two-way real time audio-video interaction between a provider and a patient. Historically these services were limited by:

- Geographic restrictions
  - Health Professional Shortage Area
- Location restrictions: OK for nursing home, physician’s office but NOT a patient’s home
- Established patients only

Telemedicine has undergone multiple updates since the Public Health Emergency declaration:

- Initially under Waivers (1135)
- Subsequently under CMS-1744-IFC
CMS expanded telemedicine benefits under a series of waivers including:

- Patient geographic limitations waived
- Patient location limitations waived
  - Patient may now be at home
- Existing patient relationship requirement waived
- Patient cost sharing is allowed to be waived
- Technology standards relaxed
  - May use most two way audio-video devices
    - Facetime, Skype or Zoom
    - Not public platforms - Facebook Live
March 30, 2020 CMS further loosened telehealth regulations (CMS-1744-IFC)

- Expanded eligible services to include Emergency Medicine, Critical Care, Observation
- Change from reporting POS 02 to same POS as face-to-face encounter – POS #23 for ED

- Requirement of -95 modifier
- Telemedicine may be utilized to fulfil EMTALA Medical Screening Exam
- Teaching physicians may fulfill oversight via telemedicine
- Office/Outpatient services may be based solely on MDM or time
Telemedicine – Documentation Requirements

- Document in the same manner as face-to-face
- Document patient consent
- HPI, Past/Family/Social Hx
- Visual Physical Exam
- Medical Decision making such as differential (including COVID concern), any prescriptions, testing or self monitoring instructions
- Document location of the provider to determine if -95 modifier will be required

Do not confuse telemedicine with telephone (99441-99443) and online digital services (99421-99423) which have their own codes.
Non-face-to-face E/M services provided to a patient via telephone using audio only by a physician or APP

**Pre-COVID:**
- Only for established patients
- Reported with Telephone Services (99441-99443) and not covered by Medicare

**Post-COVID: CMS-1744-IFC**
- New or established patients allowed
- Medicare now recognizing the Telephone Services (99441-99443)
- All other requirements unchanged
Telephone Services Pre and Post-Covid (cont.)

- Telephone Services Requirements (continued)
  - The service is *initiated* by the patient
  - The service is not related to an E/M services in the past 7 days by the same group – may not fit for lab call backs
  - The service is not related to a procedure performed by same group
Telephone Services Reimbursement Detail

<table>
<thead>
<tr>
<th>CPT Code</th>
<th>Time</th>
<th>Work RVUs</th>
</tr>
</thead>
<tbody>
<tr>
<td>99441</td>
<td>5-10 minutes</td>
<td>.25</td>
</tr>
<tr>
<td>99442</td>
<td>11-20 minutes</td>
<td>.50</td>
</tr>
<tr>
<td>99443</td>
<td>21-30 minutes</td>
<td>.75</td>
</tr>
</tbody>
</table>

“Therefore, we are finalizing, on an interim basis for the duration of the PHE payment for CPT codes 99441-99443. Work RVUs as recommended by the AMA Relative Value Scale Update Committee (RUC) of: 0.25 CPT code 99441, 0.50 CPT code 99442, 0.75 CPT code 99443.”

March 30th IFR page 122/221
Office Telehealth Hx and PE Requirements Waived

- Starting January 1, 2021 CMS had already waived Hx and PE requirements for Office/Urgent Care codes
  - 99201-99215

- Now accelerating the 2021 changes

  “We are revising our policy to specify that the office/outpatient E/M level selection when furnished via telehealth can be based on MDM or time; and to remove any requirements regarding documentation of history and/or physical exam in the medical record. This policy is similar to the policy that will apply to all office/outpatient E/Ms beginning in 2021.”

March 30th CMS IFR page 136/221
SUBJECT: Documentation of Evaluation and Management Services of Teaching Physicians

EFFECTIVE DATE: January 1, 2019
*Unless otherwise specified, the effective date is the date of service.

IMPLEMENTATION DATE: July 29, 2019

For purposes of payment, E/M services billed by teaching physicians require that the medical records must demonstrate:

- That the teaching physician performed the service or was physically present during the key or critical portions of the service when performed by the resident; and

- The participation of the teaching physician in the management of the patient.

The presence of the teaching physician during E/M services may be demonstrated by the notes in the medical records made by physicians, residents, or nurses.
Teaching Physician Relief
Oversight via Telehealth

- Teaching Physicians may now meet the supervisory requirements to bill using telehealth
- Does not need to be in person

“The requirement for the presence of a teaching physician can be met, through direct supervision by interactive telecommunications technology... the teaching physician must provide supervision either with physical presence or be present through interactive telecommunications technology during the key portion of the service.”

March 30th CMS IFR page 103/221
Summary: Teaching Physician Updates

- CMS has changed the oversight requirements for residents:
  - Direct supervision may be provided through telecommunication technology
  - Applies to E/M
  - Procedures
    - CMS query – verbally “No” yesterday (FAQ pending)

- Residents may moonlight in inpatient areas that are not part of their specific departmental training program
  - Payable under the Physician Fee Schedule
PA Oversight Relief?

- Pre COVID: Medicare Transmittal 1776
  - Shared E/M involving a PA and MD
  - Bill under the MD’s NPI and payment at 100%
  - Requires a face-to-face interaction between MD and patient

  “The presence of the physician includes virtual presence through audio/video real-time communications technology when use of such technology is indicated to reduce exposure risks for the beneficiary or health care provider.”

  March 30th CMS IFR page 136/221

- Post COVID: CMS inquiry- verbally “yes” written still pending
Pre-COVID: CMS Target Probe and Educate Overview

If chosen for the program, you will receive a letter from your Medicare Administrative Contractor (MAC).

You will be given at least a 45-day period to make changes and improve.

If some claims are denied, you will be invited to a one-on-one education session.

The MAC will review 20-40 of your claims and supporting medical records.

If compliant, you will not be reviewed again for at least 1 year on the selected topic.*

*MACs may conduct additional review if significant changes in provider billing are detected.

Up to 3 Rounds
Post-COVID: CMS Audit Relief Including TPE

- CMS suspending most reviews
  - Target, Probe and Educate – on hold
  - Post-payment reviews – on hold
- Additional Documentation Requests (ADRs)
  - No further requests to be sent
  - No need to submit for current requests
- TPE claims will be released and paid
  - Provider appeals already submitted will be processed
- Post payment reviews suspended and claims released
- CMS may conduct medical reviews if there is an indication of potential fraud
2020 CMS MIPS Overview

Fee Schedule

2020 $36.0896

MIPS

PQRS/VM/MU Max Adjustment (+/-)

QP in Advanced APM

+5% bonus (excluded from MIPS)

No change


+0.25% or 0.75%
Post-COVID: MIPS Relief

- 2019 Data submission extended
  - March 31, 2020 now April 30, 2020
- Protected if you report no 2019 data:
  - “Clinicians who have not submitted any data, by April 30, 2020 qualify for the automatic extreme and uncontrollable circumstances policy and will receive a neutral payment adjustment for the 2021 MIPS payment year. This includes MIPS eligible clinicians who qualify for facility-based measurement”

  QPP COVID -19 Response Bulletin

- 2020 relief likely - July proposed rule or sooner
Post-COVID: MIPS Bonuses

- 2021 bonuses based on 2019 data
- 2022 bonuses based on 2020 data
- MIPS is a budget neutral program
  - Unless 2020 > 85 points
- Expect few penalties in 2019 and 2020
- Bonuses likely tiny
  - Based on 2018 reporting max 1.68%
  - Likely bonuses very small for years relating to 2019 and 2020 reporting
Overview and Relief
United Healthcare 99285 Review Policy

- New 99285 Policy was slated to start April 1st
- Begin using the Optum (owned by United) Evaluation and Management Professional (E/M Pro) Analyzer
  - Determines appropriate E/M based on patient’s age, conditions, and final diagnoses

“Providers submitting professional claims for ED level 5 may experience adjustments to reflect an appropriate level E/M code or may receive a denial.”

Issued: 4.14.2020 “UnitedHealthcare is delaying the implementation of the E/M Coding Policy at least until 7/1/20, in part due to the COVID-19 pandemic.”
2% Medicare Sequester on Hold

- Medicare sequester started in 2013 under The Budget Control Act
- Lowered Medicare payments by 2% across the board
- Section 3709 of the CARES Act temporarily suspends the 2% payment decrease
- Effective for claims with dates of service May 1 through December 31, 2020
  - 40k visit group roughly $20,000 - 50 cents to the collection per visit (CPV)
Is Budget Neutrality in Effect During the Public Health Emergency?

- Lots of new codes being used
- Lots of money being spent
- ED volumes are down
- How will the conversion factor be impacted?
  - ED relative costs are down
  - ? Negative ramifications
- Likely budget neutrality will NOT be applied to expanded services during the Public Health Emergency
Billing Specifics
Public Health Emergency Billing Specifics
CR/DR Modifier

- Following Hurricane Katrina, CMS developed 2 modifiers for services impacted by large scale emergencies
  - “DR” condition code (facilities)
  - “CR” modifier (physicians/APPs)
- The use of these emergency modifiers indicate:
  - The service affected by the emergency/disaster
  - The provider has met all other requirements
- CR modifier- Medicare payment based on a formal waiver (SNF coverage following < 3 day in patient stay)
- Not many broad waivers in place related to ED professional billing – except Telehealth
“Unlike other claims for which Medicare payment is based on a “formal waiver,” telehealth claims don’t require the “DR” condition code or “CR” modifier. CMS is not requiring additional or different modifiers associated with telehealth services furnished under these waivers.”

CMS Medlearn Matters SE20011 April 10, 2020
Noninvasive Ventilation: BIPAP
How to Report?

CPT Assistant January 1999, page 10:

▪ What is the appropriate code for reporting BiPAP? BiPAP is noninvasive mechanical ventilation. It includes continuous positive airway pressure (CPAP) and pressure support ventilation. Since it includes CPAP, CPT code 94660 may be used for the initiation and subsequent management of BiPAP.

▪ 94660 Continuous positive airway pressure ventilation (CPAP), initiation and management 1.09 RVUs

▪ Count time managing non invasive ventilation with critical care time
  – 94660 not separately billable with 99291
Conclusions

- We are being tested
- The front line is holding!
- Get your funding
  - All programs that make sense for your practice
- Regulatory relief in place for multiple programs including MIPS and TPE Audits
- Smart claims processing with correct modifiers key to telemedicine and CMS covered payments
- Stay tuned for future updates
Michael Granovsky, MD, CPC, FACEP

www.logixhealth.com

mgranovsky@logixhealth.com

781.280.1575
Resource Appendix
Medicare Accelerated and Advanced Payment Program MAC COVID Hotlines

- CGS Administrators: 1-855-769-9920
- First Coast Service Options Inc: 1-855-247-8428
- National Government Services: 1-888-802-3898
- Novitas Solutions, Inc: 1-855-247-8428
- Noridian Healthcare Solutions: 1-866-575-4067
- Palmetto GBA - 1-833-820-6138:
- Wisconsin Physician Services: 1-844-209-2567

Who is my Medicare Administrative Contractor?
Michael Granovsky, MD, CPC, FACEP

www.logixhealth.com

mграновский@logixhealth.com

781.280.1575