

## **CMS Releases Additional Flexibilities to Address COVID-19 Patient Surge**

On March 30, CMS issued new rules and waivers of federal requirements to ensure that local hospitals and health systems have the capacity to absorb and effectively manage potential surges of COVID-19 patients. The changes introduce flexibilities to permit hospitals and healthcare systems to act as coordinators of healthcare delivery in their areas.

CMS is allowing healthcare systems and hospitals to provide services in locations beyond their existing walls, including ASCs, while still receiving hospital payments from Medicare to help address the urgent need to expand care capacity and to develop sites dedicated to COVID-19 treatment.

The new rules and regulations address an array of issues including the expansion of Telehealth Services to help providers address patient needs during the COVID-19 pandemic.

CMS had developed a comprehensive [fact sheet](#) outlining the flexibilities for providers and clinicians. Other resources include:

- [Flexibility Overview Graphic](#)
- [2019-Novel Coronavirus \(COVID-19\) Medicare Provider Enrollment Relief Frequently Asked Questions \(FAQs\)](#)
- [Blanket Stark Self-Referral Waivers](#)
- [Interim Final Rule: Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency](#)

### **Key Changes:**

- Ambulatory surgery centers can contract with local healthcare systems to provide hospital services, or they can enroll and bill as hospitals during the emergency declaration as long as they are not inconsistent with their State's Emergency Preparedness or Pandemic Plan.
- Providers can evaluate beneficiaries who have audio phones only.
- Virtual Check-In services, or brief check-ins between a patient and their doctor by audio or video device, can now be provided to both new and established patients.
- Clinicians can provide remote patient monitoring services for patients, no matter if it is for the COVID-19 disease or a chronic condition. For example, remote patient monitoring can be used to monitor a patient's oxygen saturation levels using pulse oximetry.

- CMS issued “Stark Law” Waivers during the pandemic and will permit certain referrals and the submission of related claims that would otherwise violate the Stark Law. They include:
  - Hospitals and other health care providers can pay above or below fair market value to rent equipment or receive services from physicians (or vice versa). For example, a physician practice may be willing to rent or sell needed equipment to a hospital at a price that is below what the practice could charge another party. Or, a hospital may provide space on hospital grounds at no charge to a physician who is willing to treat patients who seek care at the hospital but are not appropriate for emergency department or inpatient care.
  - Health care providers can support each other financially to ensure continuity of health care operations. For example, a physician owner of a hospital may make a personal loan to the hospital without charging interest at a fair market rate so that the hospital can make payroll or pay its vendors.
- CMS is making two updates to the Merit-based Incentive Payment System (MIPS) in the Quality Payment Program.
  - CMS is modifying the MIPS Extreme and Uncontrollable Circumstances policy to allow clinicians who have been adversely affected by the COVID-19 to submit an application and request reweighting of the MIPS performance categories for the 2019 performance year and potentially receive a neutral MIPS payment adjustment for CY 2021.
  - CMS is adding one new Improvement Activity for the CY 2020 performance year that, if selected, would provide high-weighted credit for clinicians within the MIPS Improvement Activities performance category. Clinicians will receive credit for this Improvement Activity by participating in a clinical trial utilizing a drug or biological product to treat a patient with COVID-19 and then reporting their findings to a clinical data repository or clinical data registry. This would help contribute to a clinician's overall MIPS final score, while providing important data to help treat patients and address the current COVID-19 pandemic.