

Hospice Telehealth Flowchart

How to Provide Medically Necessary Hospice Physician and Nurse Practitioner Visits via Telehealth to Medicare Hospice Patients During the COVID-19 Pandemic

Under 42 C.F.R. § 418.304, non-administrative, direct patient care services provided by a hospice physician or nurse practitioner serving as the patient's designated attending physician ("NP") may be billed to Medicare when (i) the services are reasonable and medically necessary for the palliation and management of a Medicare hospice patient's terminal prognosis or related conditions and (ii) the physician/NP is employed by or under arrangement with the hospice ("Billable Physician/NP Visit"). Under the federal 1135 waiver issued in response to the COVID-19 pandemic, [patients now can receive Medicare telehealth services in any location, including at home](#), for the duration of the pandemic. Further, on a [March 31, 2020 National Stakeholder Call](#), CMS confirmed that Billable Physician/NP Visits can be performed via telehealth.

This Flowchart outlines, in a step-by-step format, the specific Medicare requirements and operational best practices for hospices that are considering using telehealth to perform Billable Physician/NP Visits with Medicare hospice patients during the COVID-19 pandemic. The Flowchart can assist hospices in assessing whether telehealth Billable Physician/NP Visits are viable from a business and clinical perspective, and if so, for which hospice patients telehealth visits may be appropriate and feasible. Please note that this Flowchart, which contains information current as of April 2, 2020, does not constitute legal advice. Further, as hospices prepare to provide Billable Physician/NP Visits via telehealth, **it will be important to remember:**

- The standard of care for the Billable Physician/NP Visit is the same whether it is performed via telehealth or in person.
- Hospice should maintain complete documentation of the medically necessary visit itself and of the need to perform the visit via telehealth (e.g., to limit exposure of patients and health care providers to the coronavirus that causes COVID-19). As with visits conducted in person, the documentation should support the medical necessity of the services provided and submitted for payment.
- Hospices should confirm that their state laws and rules, including state licensure and scope-of-practice laws and rules, do not impose additional requirements or restrictions on the ability to use telehealth for Billable Physician/NP Visits. Please contact your Husch Blackwell attorneys, who are experienced in navigating state telehealth laws.
- This Flowchart does not address standards surrounding the remote prescribing of drugs and medication. For advice on navigating these issues, please contact your Husch Blackwell attorneys.

Step 1

Designate a Telehealth Implementation Leader



What Do You Need to Do?

Given the complexity of coordinating the implementation of a telehealth program, consider designating a single leader to oversee implementation and providing the leader with support from a multidisciplinary team.

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Step 5

Obtain the Patient's Informed Consent

What Do You Need to Do?

- Inform the patient what telehealth is, the expected benefits and possible risks of performing the Billable Physician/NP Visit via telehealth, what happens if the telehealth modality or technology fails during the visit, and any privacy or security measures that the hospice or physician/NP is taking.
- Give the patient an opportunity to discuss any privacy or security concerns and confirm privacy or security expectations.
- If the telehealth visit is being provided through common, non-public-facing applications like FaceTime or Skype, notify the patient that such third-party applications potentially introduce privacy risks.
- Obtain the patient's consent to the telehealth visit, including his or her consent to the modality or technology being used to perform the Billable Physician/NP Visit.

Explanation

While it is not a Medicare requirement that informed consent be obtained from the patient prior to providing the telehealth visit, many states may require written or oral consent for telehealth.

While OCR permits the use of common, non-public-facing applications to provide telehealth services during the public health emergency, OCR **also encourages** providers "to notify patients that these third-party applications potentially introduce privacy risks."

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Step 6

Properly Bill and Code
for the Telehealth Visit

What Do You Need to Do?

Include the following information on the claim form:

- The evaluation and management (“E/M”) or other procedure code (as well as any appropriate modifier, such as “GV” for medically necessary visits by the NP) that accurately describes the services provided and the location of the patient.
- The Place of Service (“POS”) code that would have been reported had the service been furnished in person.
- The new telehealth modifier “95” that CMS created for use during the COVID-19 pandemic.

Explanation

Under the recently released COVID-19 interim final rule, CMS expanded the procedure codes that may be used when billing for telehealth services. With the expanded list, all of the most commonly used E/M codes for billing hospice physician/NP visits¹ may now be used for telehealth visits.

Additionally, CMS states that the claim should include the new telehealth modifier “95” and the POS code that would have been reported had the service been furnished in person.

¹ The most commonly used E/M codes for billing hospice physician/NP visits are as follows: CPT codes 99221-99226, 99231-99233, 99304-99310, 99324-99328, 99334-99337, 99341-99345, and 99347-99350.

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Other Considerations

- Physician/NP Medicare Enrollment and Licensure Requirements. Due to recent flexibilities announced by CMS, hospices likely do not need to take any action regarding hospice physician/NP Medicare enrollment or licensure in order to conduct Billable Physician/NP Visits via telehealth. [In response to the COVID-19 pandemic, CMS](#) is “[a]llow[ing] practitioners to render telehealth services from their home without reporting their home address on their Medicare enrollment” and also has temporarily waived the requirement that the physician/NP be licensed in the state where the services are provided. Note that if the physician/NP will be providing telehealth services other than from home or a currently enrolled location, the physician/NP may still need to update his or her Medicare provider enrollment information to reflect the new location.
- Relationship Between the Physician/NP and Patient. If a hospice physician/NP is performing a Billable Physician/NP Visit via telehealth under the current COVID-19-related 1135 waiver, the physician/NP (or another physician/NP in the same practice, as defined by common federal taxpayer ID) must have received Medicare payment for furnishing an item or service to the patient within the previous three years. Note that CMS [has stated](#) that audits will not be conducted for compliance with this prior relationship requirement.
- Recent [statutory](#) and [regulatory](#) changes at the federal level permit hospice physicians and nurse practitioners to perform the face-to-face encounter for recertification using “telecommunications technology” that permits two-way, real-time interactive communication between the patient and provider. This Flowchart focuses on using telehealth to provide medically necessary hospice physician and NP visits pursuant to 42 C.F.R. § 418.304, as opposed to using telehealth to provide administrative services, such as the face-to-face encounter for recertification. However, many of the operational considerations outlined in this Flowchart also can help hospices evaluate the feasibility of conducting face-to-face encounters using telehealth.

Additional Resources

- [Federation of State Medical Boards, “States Waiving Licensure Requirements/Renewals in Response to COVID-19”](#)
- [Center for Connected Health Policy, “COVID-19 Related State Actions”](#)
- [CMS, “COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers”](#)
- [CMS, “COVID-19 Medicare Provider Enrollment Relief FAQs”](#)

Key Contacts



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