May 4, 2020

Overview of COVID-19 Financial Support Options and other Policies

Jeffrey Davis, ACEP's Director of Regulatory Affairs

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

COVID-19 Financial Support Options

I. Provider Relief Fund
II. Small Business Administration Programs
III. Medicare Advance Payment Program

Other Policies

I. Telehealth
II. Coverage and Cost Sharing
III. Recent Updates

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Regs & Eggs blog

I have blog focused on federal regulatory affairs, "Regs & Eggs." Every Thursday morning, while you're eating your breakfast, I provide weekly updates on the major federal regulations impacting emergency medicine.

- ***Click here for the current edition.***
- ***Click here for previous editions.***
- ***Click here to sign up for the distribution list.***

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Provider Relief Fund

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Background

- $175 Billion total
  - The major stimulus bill that was signed into law (the CARES Act) included a $100 billion fund that the U.S. Department of Health and Human services (HHS) has been distributing to health care providers, including physicians, in the form of grants and direct payments.
  - The Paycheck Protection Program and Health Care Enhancement Act (the COVID 3.5 package) added $75 billion to the fund on top of the initial $100 billion.
- Health care providers are not required to repay any of this funding.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

First Tranche

- On April 10, HHS distributed $30 billion of the $100 billion CARES Act funding to Medicare “providers” (physicians, hospitals, and other facilities and health professionals that bill Medicare)
- The amount was distributed in direct proportion to providers’ total 2019 Medicare fee-for-service (FFS) reimbursement. You or your group should have received approximately 6.2 percent of their Medicare FFS payments.
- Some of you, depending on where you practice and your patient mix, will receive more or less than others, since again, the amount you receive is simply based on your Medicare payments from last year.
- There is also a catch that goes along with the funding. Within 30 days, you must agree to certain terms and conditions. These terms and conditions include the following statement:
  - ACEP is seeking clarification on some of these terms and conditions and what they mean and how they may impact you and your patients.
- If you do not agree to all the terms listed, you are required to contact HHS within 30 days of receipt and return the funds (around May 9th).
- HHS has opened the CARES Act Provider Relief Fund Payment Attestation Portal where providers are required to go and attest to the terms and conditions.
- On April 14, we sent a letter to the HHS Secretary that listed all of our questions and concerns about the $30 billion distribution and the associated terms and conditions. We will keep you updated on any responses we hear from HHS.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Second Tranche: $20 billion

- HHS is allocating another $20 billion to all health care providers. The total you or your group receives—both from the initial $30 billion and the new $20 billion—will be based on your 2018 total net revenue.
- To estimate how much a provider will receive in total from both the initial $30 billion and additional $20 billion general allocation, HHS provides this formula:

(Individual Provider 2018 Revenue/$2.5 Trillion) X $50 Billion = Expected General Distribution.

Note: Total revenues of Medicare facilities and providers in 2018 is estimated to be $2.5 trillion.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

$20 billion Tranche Steps

- There are numerous steps you will need to take to receive a portion of this additional $20 billion (NOTE: This information is up-to-date as of April 27, 2020, and is subject to change).

1. If you received funding from the first $30 billion, you are required to attest to the required terms and conditions. You must attest to the terms and conditions associated with the first $30 billion in order to receive funding from this second $20 billion tranche. Per the American Medical Association (AMA), there is conflicting information about whether a provider who hasn't previously received money from the first round of funding can apply for this round.

2. You must log into the General Distribution Portal to provide revenue information. Detailed instructions on what information you need to provide are included in a frequently asked questions (FAQ) document HHS has produced, but overall include:
   - A provider's "Gross Receipts or Sales" or "Program Service Revenue" as submitted on its federal income tax return
   - The provider's estimated revenue losses in March 2020 and April 2020 due to COVID-19;
   - A copy of the provider's most recently filed federal income tax return; and
   - A listing of the TINs any of the provider's subsidiary organizations that have received relief funds but that DO NOT file separate tax returns.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

$20 billion Tranche Steps Continued

HHS provides the following table highlighting exactly what revenue to report from your tax returns based on what type of group/organization you are:

Federal Tax Classification:	Provide:	From:	On IRS Form:	Upload IRS Form:
Sole Proprietor/Disregarded Entity (LLC)	Gross receipts or Sales	Box 1	1040, Schedule C	1040 and Schedule C
C Corporation	Gross receipts or Sales	Box 1a	1120	1120
S Corporation	Gross receipts or Sales	Box 1a	1120-S	1120-S
Partnership	Gross receipts or Sales	Box 1a	1065	1065
Trust	Gross receipts or Sales	Box 1	1040, Schedule C	1041 and Schedule C
Tax-Exempt Organization	Program Service Revenue	Box 9	990	990

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

$20 billion Tranche Steps Continued

- You will also need your W-9 and Medicare or Medicaid ID number.
- HHS will use this information to calculate your payment, which as stated above, is based on 2018 net revenue. Like the first payment, HHS will deposit the money electronically into the account that you have on file with Medicare. The goal is to deposit the funds within 10 days of submitting the required information.
- Although the fund is limited to $20 billion (and, as of April 24, HHS has stated that $10 billion has already been distributed), HHS claims that the remainder will not be distributed on a first come first serve basis.
- HHS will be processing applications in batches every Wednesday at 12:00 noon EST. Thus, if you don't submit the required information in by Wednesday, you have until the following Wednesday to complete the application.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

$20 billion Tranche Steps Continued

3. After you receive the funds, you must log back into the CARES Act Provider Relief Fund attestation portal to confirm receipt and agree to ANOTHER set of terms and conditions. This second set of terms and conditions is similar to the first, but not identical. Both sets of terms and conditions (both for the initial $30 billion and the subsequent $20 billion) can be found here.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Warning and Useful Links

- ***IMPORTANT NOTE: ACEP strongly recommends that a financial expert in your group and/or your accountant review all the instructions extremely carefully, enter the information into the portal, and review and attest to both sets of terms and conditions.***

- Here are some useful sources of information to review:
  - The HHS Provider Relief Home Page
  - HHS Online Tutorial – an online guide that will take you step-by-step through the application process.
  - HHS General FAQS
  - HHS Detailed FAQs, which go into detail about the financial information you need to submit.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Targeted Allocations

- ***$22 billion for Providers in Hot Spots and Rural Health Providers:*** On May 1, HHS announced that it had started the process of distributing $12 billion of the funding to hospitals in areas that have been particularly impacted by the COVID-19 and$10 billion to rural health clinics and hospitals. None of this funding was distributed directly to physician groups. For more information about this announcement, please go here.
- ***$400 million for Indian Health Service (IHS) Facilities***: $400 million will be allocated for IHS facilities, distributed on the basis of operating expenses.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Uninsured Program

- Every health care provider who has provided treatment for uninsured suspected or confirmed COVID-19 patients on or after February 4, 2020 can request claims reimbursement at Medicare rates, subject to available funding.
- Providers can register NOW for the program here and begin submitting claims on Wednesday, May 6.
- The program's website can be found here and some frequently asked questions can be found here.
- There are two sets of terms and conditions associated with this program:
  - Terms and Conditions Associated with Treatment Services
  - Terms and Conditions Associated with Testing Services
- On April 30, the Health Resources & Services Administration (HRSA) held a webinar to discuss the program. A summary of the webinar can be found here.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Uninsured Program Continued

- HHS states that to receive reimbursement for treatment services, you must list a COVID-19 diagnosis code (B97.29 or U07.1) as the primary diagnosis on the claim. Obviously, this is challenging in an ED setting, as you often do not know if your patient has a confirmed case of COVID-19 during the ED visit. Many times, a patient won't receive test results until days after the initial ED visit—making it impossible to include a COVID-19 diagnosis code on the claim for the ED visit.
- Fortunately, at least some of the services you provide will be reimbursable under the program. HHS is also covering "testing-related visits," including ED visits. These visits must have one of the three following diagnosis codes:
  - **Z03.818**
    - Encounter for observation for suspected exposure to other biological agents ruled out (possible exposure to COVID-19)
  - **Z20.828**
    - Contact with and (suspected) exposure to other viral communicable (confirmed exposure to COVID-19)
  - **Z11.59**
    - Encounter for screening for other viral diseases (asymptomatic)
- Therefore, while not explicitly confirmed by HHS, it appears that if you evaluate a patient who may potentially have COVID-19, this E/M service would be covered.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Provider Relief Fund Next Steps

- HHS also announced that some providers will receive further, separate funding, including skilled nursing facilities, dentists, and providers that solely take Medicaid.
- HHS has not made any decisions about how the additional $75 billion included in the Paycheck Protection Program and Health Care Enhancement Act will be allocated.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Small Business Administration Loans

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Payroll Protection Program (PPP) Overview

- Available to businesses with less than 500 employees
- Loans available through June 30, 2020
  - Initial $349 billion ran out
- $321 billion additional PPP funding approved

Maximum Amount

- 2.5 X monthly payroll
  - Capped at $10 million

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

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Payroll Protection Program (PPP) Forgivable Expenses

- Payroll
  - Salary and wages (capped at $100k annual/employee)
  - Group health insurance
  - Retirement benefits
  - Vacation, and qualified family, medical, or sick leave
  - State and local taxes
- Rent
- Utilities

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Payroll Protection Program (PPP) Forgivable Loan

- Loan forgiveness procedures are as follows:
  - The loan is an amount equal to the payroll costs and costs related to payment of debts for the period of March 1, 2020 through June 30, 2020.
  - The amount of loan forgiveness will be reduced by the number of employees laid off during the period of March 1, 2020 through June 30, 2020.
  - The amount of loan forgiveness will be reduced by the amount of any reduction in total salary or wages of employees during the covered period that is in excess of 25 percent. There is relief from the forgiveness reduction if the employee's wage reduction is caught up by June 30, 2020.
  - For determining forgiveness, payroll costs must exclude those employees who earn equal to or greater than $100,000 annual compensation; however, the loan forgiveness should apply to the first $100,000 of that compensation, but not to any payroll costs in excess of $100,000 per employee.
  - Forgiveness amounts will not be included in taxable income.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Link to PPP Website

- Small businesses can still apply for loans under the Payroll Protection Program Now. Here are some other useful links:
  - For a top-line overview of the program CLICK HERE
  - SBA Paycheck Protection Program website
  - Department of the Treasury CARES Act website

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

SBA Economic Injury Disaster Loan Program

- Loans up to $2 million (not grants and not forgiven)
  - Under $200k no personal guarantee
- Initial $10B program ran out – **New** $10B added
- 3.75% interest and payback is typically 30 years
- To apply: https://covid19relief.sba.gov/#/

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Medicare Advanced Payment Program

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Program Suspended

- NOTE: AS OF APRIL 26, CMS WILL NO LONGER BE APPROVING NEW REQUESTS FOR FUNDING THROUGH THIS PROGRAM.
- Unclear what will happen to application requests that were pending as of April 26.
- Current loans are not cancelled.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

My Thoughts on Suspension

- **Of all the available financial support programs, the Medicare Advance Payment Program is definitely the weakest.** If you receive a loan from this program, you are required to pay it back within 210 days (which may be impossible since many of your ED volumes have reduced significantly and may not have sufficiently increased by then). If you do not pay back the loan in time, you are subject to an enormous 10.25 percent interest rate. That being said, ACEP, the American Medical Association, and others have made Congress aware of these issues , and lawmakers are considering making some necessary changes in the next COVID-19 legislative package.

- **The reason CMS gives for suspending the program is insufficient**. CMS claimed that it was suspending the program due to the availability of the Provider Relief Fund. While the Provider Relief Fund does have the advantage in that it is a direct payment (grant) program rather than a loan program, it is far from perfect. As you know from this blog and my previous blogs, the Provider Relief Fund includes a web of complicated, convoluted terms and conditions and application processes that only a financial expert (and perhaps even a lawyer) can successfully navigate through. Further, most of the money in the Provider Relief Fund is being distributed to hospitals. According to my very rough calculations, only a small fraction is being allocated to physician groups.

- **In all, physicians still need additional support.** I strongly believe that HHS, including CMS, should be creating new options for financial relief, not eliminating current ones. It is still unclear whether CMS has instituted a permanent or temporary suspension to the program, and it will be interesting to see what CMS decides to do as individual physicians and physician groups continue to struggle during this crisis. I hope CMS will ultimately restart the program and that Congress steps in to create more favorable programmatic parameters.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Background (in case its reopened)

- Medicare-enrolled providers who have billed Medicare within the last six months and meet a few other criteria can request a specific amount up to 3 months-worth of their historical Medicare payments.
- CMS' Medicare Administrative Contractors will work to review and issue payments within *seven calendar days* of receiving the request.
- **Please note that this is NOT a grant**. Health care practitioners will be required to pay back the payment over time, starting 120 days after the receipt of the payment.
  - Specifically, after 120 days, CMS will start recoup the funding by reducing each Medicare claim billed until the full amount is repaid. Health care practitioners must pay back the entire amount by 210-day period (seven months).
- More details about the program, including eligibility criteria, the application process, and the recoupment/repayment process can be found here. The American Medical Association also put together a frequently asked questions document on this program.

.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Telehealth Changes

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Original Policy	Temporary Flexibilities Provided
Geographic and "Originating Site" Restrictions: **Medicare has only allowed telehealth services to be performed in rural areas of the country.** **Further, Medicare beneficiaries must travel to certain health care facilities such as a physician's office, skilled nursing facility or hospital for the visit.**	Geographic and "Originating Site" Restrictions: Telehealth services can be provided in all areas (not just rural), and any Medicare beneficiaries can receive these services from any location, including their homes. This applies to both new patients and those with whom the furnishing physician has a pre-established relationship.
Technology Requirements: **Telehealth services were required to be delivered via a two-way, real-time interactive communication, with only a few exceptions.**	Technology Requirements: Telehealth services can be delivered through the use of telephones that have audio and video capabilities. HHS is waiving penalties for Health Insurance Portability and Accountability Act (HIPAA) violations against health care professionals that serve patients in good faith through everyday communications technologies, such as FaceTime or Skype. CMS will also reimburse for audio-only telephone calls. These separate telephone codes (CPT codes 98966-98968 and CPT codes 99441-99443) have been temporarily added to the list of approved Medicare telehealth services and temporarily have the same value as the office and outpatient E/M codes.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Original Policy	Temporary Flexibilities Provided
Beneficiary Cost Sharing: **Cost-sharing by Medicare beneficiaries for telehealth services was the same as if they were performed in-person.** **Physicians were not permitted to waive cost-sharing for specific beneficiaries, as it is a potential violation of the Federal anti-kickback statute.**	**Beneficiary Cost Sharing:** HHS is providing flexibility for health care professionals to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs.
EMTALA: **Medical screening exams (MSEs) must be conducted in-person**	**EMTALA:** MSEs can be conducted via telehealth. Qualified health care practitioners providing the telehealth service may be on the hospital's campus or offsite (due to staffing shortages). The use of telehealth to provide screening of individuals who have not physically presented to the hospital for treatment does not create an EMTALA liability. For other EMTALA changes, please go here.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Original Policy	Temporary Flexibilities Provided
Telehealth Services List: **The Medicare-approved list of telehealth services (codes) are mostly cognitive services delivered in the office and outpatient settings.** **Emergency department (ED) evaluation and management (E/M) codes (CPT codes 99281-99285) are NOT on the list of approved Medicare telehealth services.** **Under Medicare rules, services provided in the ED must have the place of service code (POS) 23, which limits the E/M codes emergency physicians can bill to these codes**	**Telehealth Services List:** Emergency physicians can perform telehealth services from any location, including the ED. CMS added the ED E/M codes (CPT codes 99281 to 99285), the critical care codes (CPT codes 99291 and 99292), and the observation codes (CPT codes 99217-99220, 99224-99226, and 99234-99236) to the list of approved Medicare telehealth services for the duration of the COVID-19 national emergency. **The place of service code for emergency telehealth services is the same as what would be used if the services were delivered in-person (for the ED codes, the place of service is 23). Include modifier 95 to each claim.**
Licensing and Credentialing: **Currently there are regulatory barriers that restrict the ability for physicians to get licensed and credentialed in multiple states so that they can provide telehealth services to patients across state lines**	**Licensing and Credentialing:** CMS has issued a temporary waiver to allow physicians who are licensed in one state to provide services to a patient another state. This applies to Medicare and Medicaid, and certain conditions apply. Further, in order for the waiver to be effective, the state where the physician is performing the telehealth service must also waive its licensure requirements. CMS has not addressed the issue of credentialing with respect to telehealth and has pointed out that this is within the jurisdiction of the states to address.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Coverage and Cost Sharing

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Private Insurance

- On April 11, HHS, the Department of Labor, and the Treasury Department jointly released guidance that most health plans must follow regarding coverage and cost-sharing requirements for COVID-19 testing and related services.
- The guidance states that health plans must cover and waive patient cost-sharing (coinsurance, copayments, and deductibles) for items and services furnished to an individual during healthcare provider office visits (which includes in-person visits and telehealth visits), urgent care center visits, and **emergency department visits** that result in an order for or administration of COVID-19 test, but only to the extent the items and services relate to the furnishing or administration of the product **or to the evaluation of the individual for purposes of determining the need of the individual for such product.** Thus, emergency department visits that lead to an order for or the administration of a test must be covered.
- The guidance also includes information on what insurers must pay for these services. If the service is provided in-network, the health plan must pay the negotiated rate—which must apply for the duration of the national emergency. If the service is provided out-of-network, the health plan should reimburse the provider in an amount that equals the cash price for such service as listed by the provider on a public internet website, or the plan may negotiate a rate with the provider for less than such cash price.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Private Insurance Continued

- ACEP has a number of questions and concerns about this guidance, which we included in a letter to the HHS Secretary on April 14.
- Our questions and comments include:
  - We asked HHS to explain how the negotiation process would occur, and what guardrails are included in the process.
  - We asked HHS to clarify whether the insurer's payment to providers for these visits INCLUDE the waived cost-sharing amount
  - For an ED visit, there is simply no way to parse out from billing which services are provided to a patient before or after a test was ordered or administered. Therefore, we asked HHS to confirm that health plans must cover all services provided in such an ED visit in order to comply with CMS' guidance.
- We have multiple concerns about posting cash prices for emergency care on a public website.
  - It could lead to anticompetitive behavior by competing groups once they are aware of the rates that their competitors have listed
  - It could have unintended effects on the local health care market by giving insurers an unfair advantage in future contract negotiations.
  - We have concerns about the potential implications of posting prices with regard to EMTALA
- In light of these concerns, we requested that HHS issue an overarching statement that clarifies that the posting of cash prices will in no way violate any existing provisions of federal law.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Private Insurance Continued

- ACEP will keep you updated as we wait for responses to these questions.
- On April 23, CMS did issue revised guidance for individual and small group health plans encouraging issuers to “to work with out-of-network providers” to “agree upon a rate to ensure that enrollees are not balance billed,” adding that multiple factors may be affecting patient access to in-network providers.
- To see the specific policies of individual insurers, please see go here.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Medicare Fee-for-service

- CMS recently stated that the agency will waive Medicare beneficiaries' cost-sharing (coinsurance and deductible) for all services that result in an order for or administration of a COVID-19 test, are related to administering such a test, or to the evaluation of an individual for purposes of determining the need for such a test. *This includes emergency department evaluation and management (E/M) services, hospital observation services, and office and other outpatient services.*
- For each applicable claim, you should use the "CS modifier" and should NOT charge Medicare patients any co-insurance and/or deductible amounts for those services.
- **The policy is retroactive to March 18** and lasts through the end of the COVID-19 national emergency. Thus, if you already have submitted eligible claims after March 18 without the CS modifier, you can contact your local Medicare Administrative Contractor (MAC) and request to resubmit the claims with the CS modifier to get 100 percent payment.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Medicare Advantage

- CMS released guidance to Medicare Advantage Organizations stating that they may waive or reduce enrollee cost-sharing for COVID-19 laboratory tests, telehealth benefits or other services to address the outbreak, as long as they do so for all enrollees on a uniform basis. Further, CMS clarified that essential health benefits that are covered by non-grandfathered health plans in the individual and small group markets generally includes coverage for the diagnosis and treatment of COVID-19. However, the exact coverage details and cost-sharing amounts for individual services may vary by plan.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Medicaid

- On April 13, CMS posted Medicaid coverage and cost-sharing guidance. In the guidance, CMS implements a provision of the FFCRA that adds a new optional Medicaid eligibility group for uninsured individuals during the COVID-19 public health emergency.
- The services that states can cover for this new group of individuals include COVID-19 tests and "COVID-19 testing-related services." CMS defines COVID-19 testing-related services to include items and services for which payment is available under the state plan that are directly related to the administration of COVID-19 test or to the evaluation of a beneficiary for purposes of determining the need for such product, such as an Xray. COVID-19 testing-related services do not include services for the treatment of COVID-19.
- States who cover these services for the uninsured will receive a 100 percent Federal Medical Assistance Percentage (FMAP). This means that the federal government will entirely cover the cost. However, the 100 percent match is not provided for COVID-19-related testing and diagnostic services provided to individuals covered under other Medicaid eligibility groups. Rather, for the traditional Medicaid populations, states will cover the cost of the waived cost-sharing but can qualify for a temporary 6.2 percentage point FMAP increase.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Medicaid

- On April 13, CMS posted Medicaid coverage and cost-sharing guidance. In the guidance, CMS implements a provision of the FFCRA that adds a new optional Medicaid eligibility group for uninsured individuals during the COVID-19 public health emergency.
- The services that states can cover for this new group of individuals include COVID-19 tests and "COVID-19 testing-related services." CMS defines COVID-19 testing-related services to include items and services for which payment is available under the state plan that are directly related to the administration of COVID-19 test or to the evaluation of a beneficiary for purposes of determining the need for such product, such as an Xray. COVID-19 testing-related services do not include services for the treatment of COVID-19.
- States who cover these services for the uninsured will receive a 100 percent Federal Medical Assistance Percentage (FMAP). This means that the federal government will entirely cover the cost. However, the 100 percent match is not provided for COVID-19-related testing and diagnostic services provided to individuals covered under other Medicaid eligibility groups. Rather, for the traditional Medicaid populations, states will cover the cost of the waived cost-sharing but can qualify for a temporary 6.2 percentage point FMAP increase.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Coding

For more information on COVID-19 coding resources, please click here.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Recent Updates

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Free Standing EDs

- Currently, independent free-standing emergency departments (IFEDs) are not eligible to enroll in Medicare and Medicaid. On April 21, CMS issued guidance allowing licensed IFEDs in Colorado, Delaware, Rhode Island, and Texas to temporarily provide care to Medicare and Medicaid patients. This is part of CMS' COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers, where CMS waived certain Conditions of Participation (CoPs) for hospitals to expand their ability to provide care for patients during this public health emergency (PHE).
- Under the guidance, IFEDs may participate in Medicare and Medicaid in one of three ways:
  - Becoming affiliated with a Medicare/Medicaid-certified hospital under the temporary expansion 1135 emergency waiver;
  - Participating in Medicaid under the clinic benefit if permitted by the state; or
  - Enrolling temporarily as a Medicare/Medicaid-certified hospital to provide hospital services.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Additional Regulatory Flexibilities

- On April 30, CMS released an interim final rule (IFR) that establishes new regulatory flexibilities in addition to the policies CMS previously announced at the end of March. Click here for a short summary of the key policy changes included in the IFR.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

EMTALA

- CMS has recently released frequently asked questions (FAQs) about the temporary EMTALA changes and waiver that the agency has granted.

- ACEP held a webinar on April 3 with CMS to discuss EMTALA and telehealth policies. A recording of the webinar is found here and a transcript here.

- For additional information on EMTALA, please see the EMTALA chapter in ACEP's Field Guide. Please note that ACEP will be updating this chapter of the Field Guide to incorporate information from the new FAQs.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

MIPS

- In March, CMS announced some needed relief to Merit-based Incentive Payment System (MIPS) reporting requirements. MIPS is the major quality reporting program in Medicare for physicians.
- **2019 Performance Period**
  - You were originally required to submit your 2019 performance data by March 31, 2020. CMS EXTENDED the deadline for reporting to **April 30, 2020**. However, if you do not submit MIPS data by April 30, 2020, you will qualify for the automatic extreme and uncontrollable circumstances policy and will receive a neutral payment adjustment for the 2021 MIPS payment year (i.e. if you don't report, you will be held harmless.) For more details on your reporting options, please see CMS' fact sheet.
  - If you did submit 2019 data, you can now review your preliminary score by logging onto the Quality Payment Program website. Please keep in mind that this is not your final score or feedback. Your final score and feedback will be available in July 2020.
- **2020 Performance Period**
  - CMS is still evaluating options for providing relief around participation and data submission for 2020. ACEP expects to receive an update on the 2020 performance period soon.

This MIPS relief was one of the major requests that ACEP included in our letter to the HHS Secretary on March 13th.

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Questions?

American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

Thank You