

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY

W W W . A A C A P . O R G

September 18, 2019

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: **CMS-1715-P**
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: File Code CMS-1715-P; CY 2020 Revisions to Payment Policies under the Physician Payment Schedule and Other Changes to Part B Payment Policies; (August 14, 2019)

Dear Administrator Verma:

The American Academy of Child and Adolescent Psychiatry (AACAP) appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services (CMS) Notice of Proposed Rule Making (Proposed Rule) on the revisions to Medicare payment policies under the Physician Payment Schedule for calendar year (CY) 2020, published in the August 14, 2019 *Federal Register* (Vol. 84, No. 157 FR, pages 40482-41289).

AACAP is the professional home to 9,400 child and adolescent psychiatrists, some of whom also treat adults and transitional age youth (age 18 years and above). Our mission includes promoting the healthy development of children, adolescents, and families. We therefore have a strong interest in public policy and payment issues that affect how psychiatric services are delivered, documented, and reimbursed, as elements of the regulatory framework in the Medicare program are often adopted by private payers, as well as the Children's Health Insurance Plan (CHIP) and Medicaid. Because Medicaid and the CHIP provide health insurance coverage to tens of millions of American children, as referenced in part in this Proposed Rule, we believe that CMS has the important obligation to consider the impact of policy changes on this vulnerable patient population, ages 0-17.

The Proposed Rule includes numerous proposed policy and technical modifications within the Resource-Based Relative Value Scale (RBRVS). Our letter includes comments principally regarding the following key sections:

- Payment for Evaluation and Management (E/M) Services (section II.P);
- Telehealth Service (section II.F); and

- Medicare Coverage for Opioid Use Disorder Treatment Services Furnished by Opioid Treatment Program (section II.G).

Payment for Evaluation and Management (E/M) Services (section II.P)

AACAP supports the CMS proposal to align the previously finalized E/M office visit coding changes with the framework adopted by the CPT Editorial Panel. As now proposed, the policy changes for E/M office visits would be effective for services rendered starting January 1, 2021. As written, the CPT coding changes will retain 5 levels of coding for established patients; reduce the number of levels to 4 for new patients (by deleting 99201) and revise the code definitions and guidelines. A new CPT code for extended office visit time also will be implemented. The changes also revise the times and medical decision-making definitions for the office visit codes. History and physical exams should continue to be performed as medically appropriate; however, these elements alone will no longer be a consideration for code level selection. AACAP believes that this new coding framework will reduce administrative burden on physicians and better reflect office visit services, as they are performed today.

Proposed Add-On Code GPC1X

AACAP also notes that CMS proposes to implement a Medicare-specific add-on code for E/M office visits describing the complexity associated with visits that serve as a focal point for all medical care or for ongoing care related to a patient's "single, serious, or complex chronic condition," none of which is defined. AACAP respectfully requests that that this new add-on code be fully defined, including specifying exactly what each of the descriptors mean (e.g., "single," "serious," and/or "complex").

Of note, CMS does not provide any specific assumptions regarding the projected utilization for this new add-on code, and a comparison between CMS impact tables indicate that more than \$1.5 billion will be redistributed between specialties, if this code is implemented. Although, the codes descriptor implies that all physicians may report the code, only a short list of mostly primary care specialties, including Psychiatry, are projected to receive payment for the service, per the comparison of impact tables 111 and 115.

To avoid confusion, AACAP also asks that CMS explain the projected use of this code in detail. We request that CMS articulate its underlying assumptions regarding the potential use of this code and develop a specific impact table in the Final Rule indicating the impact by specialty. AACAP further notes that CMS assumes that this new add-on code would be applied to nearly 50% of the claims for the listed 18 specialties combined, thus further clarification seems in order.

Prolonged E/M without Direct Patient Contact (99358-99359)

In the Proposed Rule, CMS states that, "given that CPT codes 99358, 99359 can be used to report practitioner time spent on any date (the date of the visit or any other day), the CPT reporting instruction 'see 99358, 99359' seems circular." AACAP believes this is in error, as other commentators also have noted.

CMS further states that it is unclear if 99358 and 99359 can be reported in addition to or instead of the new 99XXX add-on code to describe extended time. AACAP emphasizes and requests that CMS make clear in the Final Rule that the use of codes 99358 or 99359 not be restricted, except for the actual date of service of an office visit code, as per the following.

The descriptor and guidelines clearly state that 99XXX should be utilized for the extended time on the date of encounter and that 99358 and 99359 are *not* to be reported for this time.

99XXX

Prolonged office or other outpatient evaluation and management service(s) (beyond the total time of the primary procedure which has been selected using total time), requiring total time with or without direct patient contact beyond the usual service, on the date of the primary service; each 15 minutes (List separately in addition to codes 99205, 99215 for office or other outpatient Evaluation and Management services)

(Use 99XXX in conjunction with 99205, 99215)

(Do **not** report 99XXX in conjunction with 99354, 99355, 99358, 99359, 99415, 99416)

(Do not report 99XXX for any time unit less than 15 minutes)

“10-Day Window” Reference for Office Visit Valuation

In addition to the above, CMS states in the Proposed Rule that “[t]he new prefatory language seems unclear regarding whether CPT codes 99358, 99359 could be reported instead of, or in addition to, CPT code 99XXX, and whether the prolonged time would have to be spent on the visit date, within 3 days prior or 7 days after the visit date, or outside of this new 10-day window relevant for the base code.”

Further, CMS states that it is “seeking public input on this proposal and whether it would be appropriate to interpret the CPT reporting instructions for CPT codes 99358-9 as proposed, as well as how this interpretation may impact valuation. We believe CPT codes 99358 and 99359 may need to be redefined, resurveyed and revalued.”

In general, AACAP agrees with comments filed by the American Academy of Pediatrics that the “CMS reference to a ‘new 10-day window’ (page 40674) is not conceptually different from the current way that CMS views the pre- and post-service periods for the Office Visit codes; therefore, it would not be accurate to refer to it as a “new” 10-day window.”

The RUC survey applied conventional pre- and post-period concepts in instructing survey participants to report only time in the 10-day period that was related to the Office Visit encounter itself and to not otherwise include time that was separately reportable. In short, the assignment of the 3- and 7- day pre- and post-periods is not conceptually new and is aligned with the existing approach to Office Visit valuation. This concept of prolonged service codes 99358 and 99359 capturing work that exceeds the total work of the E/M has not changed with the new code structure. AACAP agrees that neither CPT nor the RUC processes views Office Visits as a “10-day global” service that excludes other time-based coding.

Consequently, AACAP again emphasizes and requests that CMS make clear in the Final Rule that the use of codes 99358 or 99359 not be restricted, except for the actual date of service of an office visit code.

Telehealth Service (section II.F)

CMS is proposing to add three new telehealth codes, which describe a bundled monthly episode of care for treatment of opioid use disorders (GYYY1, GYYY2, GYYY3). This treatment includes care coordination, individual therapy, and group therapy and counseling. Because this matter relates closely to new proposed Medicare Coverage for Opioid Use Disorder Treatment Services Furnished by Opioid Treatment Program (section II.G), AACAP asks CMS to consider our comments below as also applicable to this new proposal. In addition, AACAP notes with approval the statement by CMS that, “[t]elemedicine services should, under no circumstances, expand the scope of practice of a healthcare professional or permit practice in a jurisdiction (the location of the patient) where the provider is not licensed.”

Medicare Coverage for Opioid Use Disorder Treatment Services Furnished by Opioid Treatment Program (section II.G)

As CMS has noted, Sec. 2005 of the “Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act” established a new Medicare Part B benefit for opioid use disorder (OUD) treatment services, including medications for medication-assisted treatment (MAT), furnished by opioid treatment programs (OTPs).

To meet this statutory requirement, CMS is specifically proposing:

- Definitions of OTP and OUD treatment services;
- Enrollment policies for OTPs;
- Methodology and estimated bundled payment rates for OTPs that vary by the medication used to treat OUD and service intensity, and by full and partial weeks;
- Adjustments to the bundled payments rates for geography and annual updates;
- Flexibility to deliver the counseling and therapy services described in the bundled payments via two-way interactive audio-video communication technology, as clinically appropriate; and
- Zero beneficiary copayment for a time-limited duration.

Under the proposed rule, CMS intends to implement this benefit beginning January 1, 2020, as required by the SUPPORT Act.

Bundled Payments under the Proposed Rule for Substance Use Disorders

As above, CMS is proposing to create new coding and payment for a bundled episode of care for management and counseling for OUD. The new proposed codes describe a monthly bundle of services for the treatment of OUD that includes overall management, care coordination, individual and group psychotherapy, and substance use counseling. One code describes the initial month of treatment, which would include administering assessments and developing a treatment plan; another code describes subsequent months of treatment; and an add-on code

describes additional counseling. CMS also is proposing that the individual psychotherapy, group psychotherapy, and substance use counseling included in these codes could be furnished as Medicare telehealth services using communication technology, as clinically appropriate.

For its part, AACAP generally supports the above construct, but seeks further guidance on who will report the codes for OUD services and to whom the payment will go. Because this bundled payment arrangement could likely be adopted by private payers beyond Medicare and Medicaid, if finalized, we would urge that the bundled payment include a certain number of family sessions (group therapy or otherwise), where clinically indicated and appropriate. This could clearly benefit those traditionally served by the Medicare and Medicaid program, as well as others who might later feel the effects of this proposed changes from other payers.

In summary, AACAP thanks CMS for the opportunity to comment on several important issues in the Proposed Rule and seeks clarification, where indicated. Should you have questions, or need further information from AACAP, please contact Ronald Szabat, JD, LLM, Director of Government Affairs & Clinical Practice at rszabat@aacap.org.

Sincerely,

A handwritten signature in black ink that reads "Karen Dineen Wagner". The signature is written in a cursive, flowing style.

Karen Dineen Wagner, MD, PhD
President
American Academy of Child & Adolescent Psychiatry (AACAP)
3615 Wisconsin Avenue, NW
Washington, DC 20016-3007
O: (202) 966-7300
www.aacap.org