**CROSSWALK of Covid waivers Resource tool**

1. **Eligible Practitioners**

* **Eligible Practitioners.** Pursuant to authority granted under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that broadens the waiver authority under section 1135 of the Social Security Act, the Secretary has authorized additional telehealth waivers. CMS is waiving the requirements of section 1834(m)(4)(E) of the Act and 42 CFR § 410.78 (b)(2) which specify the types of practitioners that may bill for their services when furnished as Medicare telehealth services from the distant site. The waiver of these requirements expands the types of health care professionals that can furnish distant site telehealth services to include all those that are eligible to bill Medicare for their professional services. This allows health care professionals who were previously ineligible to furnish and bill for Medicare telehealth services, including physical therapists, occupational therapists, speech language pathologists, and others, to receive payment for Medicare telehealth services.

**ACMA Comment/Suggestion**: PT/OT allowed to practice via telehealth.  This could allow faster discharge for a patient capable of interacting with PT/OT via audio/video rather than waiting for in-person visit.

**Waiver Effective Until:** September 14, 2022

**Legislative Fix**: H.R.2168 - *Expanded Telehealth Access Act*

**2. Audio Only Telehealth**

* **Audio-Only Telehealth for Certain Services.** Pursuant to authority granted under the CARES Act, CMSwaiving is the requirements of section 1834(m)(1) of the ACT and 42 CFR § 410.78(a)(3) for use of interactive telecommunications systems to furnish telehealth services, to the extent they require use of video technology, for certain services. This waiver allows the use of audio-only equipment to furnish services described by the codes for audio-only telephone evaluation and management services, and behavioral health counseling and educational services (see designated codes https://[www.cms.gov/Medicare/Medicare-](http://www.cms.gov/Medicare/Medicare-) General-Information/Telehealth/Telehealth-Codes). Unless provided otherwise, other services included on the Medicare telehealth services list must be furnished using, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner.

**ACMA Comment/Suggestion**: allowing E&M services by audio only and Behavioral Health practitioners to offer counseling and education by audio only.  This is important for patients with physical, psychosocial or transportation difficulties keeping them from accessing timely healthcare when a phone session could possibly take care of their health concerns.

**Waiver Effective Until:** September 14, 2022

**Legislative Fix:** H.R.2166 *- Ensuring Parity in MA and PACE for Audio-Only Telehealth Act of 2021*

**3.  Anything related to 42CFR 482.43(c) and limiting detailed DCP for hospitals, particularly:**

**482.43(c)(1) "Include in the discharge plan a list of HH, SNF, IRF, LTCHs available to the patient..."**

**ACMA Comment/Suggestion**: This is adding pages to the After Visit Summary (generally printed for the patient at discharge) or any other transfer documents and is actually seldom really relevant after discharge due to fluctuating (daily) availability and the requirement generally expected for an "up to the minute" evaluation by a provider to ensure continued eligibility for the service.

**Waiver Effective Until:** September 14, 2022

  4.  **The Utilization Review waiver, especially related to delivery of notices.**

* CMS is waiving certain requirements under 42 CFR §482.1(a)(3) and 42 CFR §482.30 which address the statutory basis for hospitals and includes the requirement that hospitals participating in Medicare and Medicaid must have a utilization review plan that meets specified requirements.
* CMS is waiving the entire utilization review condition of participation Utilization Review (UR) at §482.30, which requires that a hospital must have a UR plan with a UR committee that provides for a review of services furnished to Medicare and Medicaid beneficiaries to evaluate the medical necessity of the admission, duration of stay, and services provided. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. Removing these administrative requirements will allow hospitals to focus more resources on providing direct patient care.

**Waiver Effective Until**: September 14, 2022

**5.** **Expanded Ability for Hospitals to offer LTC services (swing beds) for patients who do not require Acute Care but do meet SNF LOC criteria.**

* Expanded Ability for Hospitals to Offer Long-term Care Services (“Swing-Beds”) for Patients Who do not Require Acute Care but do Meet the Skilled Nursing Facility (SNF) Level of Care Criteria as Set Forth at 42 CFR 409.31.
* Under section 1135(b)(1) of the Act, CMS is waiving the requirements at 42 CFR 482.58, “*Special Requirements for hospital providers of long-term care services (“swing-beds”)”* subsections (a)(1)-(4) *“Eligibility”*, to allow hospitals to establish SNF swing beds payable under the SNF prospective payment system (PPS) to provide additional options for hospitals with patients who no longer require acute care but are unable to find placement in a SNF.

**To qualify for this waiver, hospitals must:**

1. Not use SNF swing beds for acute level care.
2. Comply with all other hospital conditions of participation and those SNF provisions set out at 42 CFR 482.58(b) to the extent not waived.
3. Be consistent with the state’s emergency preparedness or pandemic plan.

**Hospitals must call the CMS Medicare Administrative Contractor (MAC) enrollment hotline to add swing bed services. The hospital must attest to CMS that:**

They have made a good faith effort to exhaust all other options;

1. There are no skilled nursing facilities within the hospital’s catchment area that under

normal circumstances would have accepted SNF transfers, but are currently not willing to accept or able to take patients because of the COVID-19 public health emergency (PHE);

1. The hospital meets all waiver eligibility requirements; and
2. They have a plan to discharge patients as soon as practicable, when a SNF bed becomes available, or when the PHE ends, whichever is earlier.

*Note*: This waiver applies to all Medicare enrolled hospitals, except psychiatric and long-term care hospitals that need to provide post-hospital SNF level swing-bed services for non-acute care patients in hospitals, so long as the waiver is not inconsistent with the state’s emergency preparedness or pandemic plan. The hospital shall not bill for SNF PPS payment using swing beds when patients require acute level care or continued acute care at any time while this waiver is in effect. **This waiver is permissible for swing bed admissions during the COVID-19 PHE with an understanding that the hospital must have a plan to discharge swing bed patients as soon as practicable, when a SNF bed becomes available, or when the PHE ends, whichever is earlier.**

**6. The 3-day prior inpatient stay**

* **3-Day Prior Hospitalization.** Using the authority under **Section 1812(f)** of the Act, CMS is waiving the requirement for a 3-day prior hospitalization for coverage of a SNF stay, which provides temporary emergency coverage of SNF services without a qualifying hospital stay, for those people who experience dislocations, or are otherwise affected by COVID-19. In addition, for certain beneficiaries who recently exhausted their SNF benefits, it authorizes renewed SNF coverage without first having to start a new benefit period (this waiver will apply only for those beneficiaries who have been delayed or prevented by the emergency itself from commencing or completing the process of ending their current benefit period and renewing their SNF benefits that would have occurred under normal circumstances).

**ACMA Comment/Suggestion**: But also in that section, allowing the Level 1 PASARR to be performed after the placement in a facility so the Level 2, if needed, can be done in the facility.  Waiting for the Level 2 decision can be a huge delay in discharge.  I don't see this really changing but we should be monitoring for changes to the waiver.  Same with renewing coverage days - we need to monitor for changes in that too.

**Waiver Effective Until**: September 14, 2022

**7. Medical Staff**

* CMS is waiving requirements under 42 CFR §482.22(a)(1)-(4) to allow for physicians whose privileges will expire to continue practicing at the hospital and for new physicians to be able to practice before full medical staff/governing body review and approval to address workforce concerns related to COVID-19. CMS is waiving §482.22(a) (1)-(4) regarding details of the credentialing and privileging process.

**Waiver Effective Until**: September 14, 2022

**8. Utilization Review**

* CMS is waiving certain requirements under 42 CFR §482.1(a)(3) and 42 CFR
  + §482.30 which address the statutory basis for hospitals and includes the requirement that hospitals participating in Medicare and Medicaid must have a utilization review plan that meets specified requirements.
  + CMS is waiving the entire utilization review condition of participation Utilization Review (UR) at §482.30, which requires that a hospital must have a UR plan with a UR committee that provides for a review of services furnished to Medicare and Medicaid beneficiaries to evaluate the medical necessity of the admission, duration of stay, and services provided. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. Removing these administrative requirements will allow hospitals to focus more resources on providing direct patient care.

**Waiver Effective Until**: September 14, 2022

**9. Quality Assessment and Performance Improvement Program**

* CMS is waiving 42 CFR §482.21(a)–(d) and (f), and §485.641(a), (b), and (d), which provide details on the scope of the program, the incorporation, and setting priorities for the program’s performance improvement activities, and integrated Quality Assurance & Performance Improvement programs (for hospitals that are part of a hospital system). These flexibilities, which apply to both hospitals and CAHs, may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. We expect any improvements to the plan to focus on the Public Health Emergency (PHE). While this waiver decreases burden associated with the development of a hospital or CAH QAPI program, the requirement that hospitals and CAHs maintain an effective, ongoing, hospital-wide, data-driven quality assessment and performance improvement program will remain. This waiver applies to both hospitals and CAHs.

**Waiver Effective Until**: May 7, 2022

**10. Inpatient Rehabilitation Facility – Intensity of Therapy Requirement (“3-Hour Rule”)**

* As required by section 3711(a) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, during the COVID-19 public health emergency, the Secretary has waived 42 CFR

§ 412.622(a)(3)(ii) which provides that payment generally requires that patients of an inpatient rehabilitation facility receive at least 15 hours of therapy per week.

* This waiver clarifies information provided in “Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency” (CMS-1744-IFC). (85 Federal Register 19252, 19287, April 6, 2020). The information in that rulemaking (CMS-1744-IFC) about Inpatient Rehabilitation Facilities was contemplated prior to the passage of the CARES Act.

**Waiver Effective Until**: September 14, 2022

* + 1. **Supporting Care for Patients in Long-Term Care Acute Hospitals (LTCHs)**
* CMS has determined it is appropriate to issue a blanket waiver to long-term care hospitals (LTCHs) where an LTCH admits or discharges patients in order to meet the demands of the emergency from the 25-day average length of stay requirement at § 412.23(e)(2), which allows these hospitals to participate in the LTCH PPS.
* In addition, during the applicable waiver time period, CMS has determined it is appropriate to issue a blanket waiver to hospitals not yet classified as LTCHs, but seeking classification as an LTCH, to exclude patient stays where the hospital admits or discharges patients in order to meet the demands of the emergency from the 25-day average length of stay requirement, which must be met in order for these hospitals to be eligible to participate in the LTCH PPS. Hospitals should add the “DR” condition code to applicable claims.

**Waiver Effective Until**: September 14, 2022

* + 1. **Long Term Care Hospitals - Site Neutral Payment Rate Provisions.**
* Also as required by section 3711(b) of the CARES Act, during the Public Health Emergency (PHE) due to COVID-19, the Secretary has waived section 1886(m)(6) of the Social Security Act relating to certain site neutral payment rate provisions for long-term care hospitals (LTCHs).
  + Section 3711(b)(1) of the CARES Act waives the payment adjustment under section 1886(m)(6)(C)(ii) of the Act for LTCHs that do not have a discharge payment percentage (DPP) for the period that is at least 50 percent during the COVID-19 public health emergency period. Under this provision, for the purposes of calculating an LTCH’s DPP, all admissions during the COVID-19 public health emergency period will be counted in the numerator of the calculation, that is, LTCH cases that were admitted during the COVID-19 public health emergency period will be counted as discharges paid the LTCH PPS standard Federal payment rate.
  + Section 3711(b)(2) of the CARES Act provides a waiver of the application of the site neutral payment rate under section 1886(m)(6)(A)(i) of the Act for those LTCH admissions that are in response to the public health emergency and occur during the
  + COVID-19 public health emergency period. Under this provision, all LTCH cases admitted during the COVID-19 public health emergency period will be paid the relatively higher LTCH PPS standard Federal rate. A new LTCH PPS Pricer software package will be released in April 2020 to include this temporary payment policy effective for claims with an admission date occurring on or after January 27, 2020 and continuing through the duration of the COVID-19 public health emergency period.
    - Claims received on or after April 21, 2020, will be processed in accordance with this waiver. Claims received April 20, 2020, and earlier will be reprocessed.

**Waiver Effective Until**: September 14, 2022

* + 1. **Care for Excluded Inpatient Psychiatric Unit Patients in the Acute Care Unit of a Hospital**
* CMS is allowing acute care hospitals with excluded distinct part inpatient psychiatric units to relocate inpatients from the excluded distinct part psychiatric unit to an acute care bed and unit as a result of a disaster or emergency. The hospital should continue to bill for inpatient psychiatric services under the Inpatient Psychiatric Facility Prospective Payment System for these patients and annotate the medical record to indicate the patient is a psychiatric inpatient being cared for in an acute care bed because of capacity or other exigent circumstances related to the COVID-19 emergency. This waiver may be utilized where the hospital’s acute care beds are appropriate for psychiatric patients and the staff and environment are conducive to safe care. For psychiatric patients, this includes assessment of the acute care bed and unit location to ensure those patients at risk of harm to self and others are safely cared for.

**Waiver Effective Until**: September 14, 2022

* + 1. **Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)**
* When DMEPOS is lost, destroyed, irreparably damaged, or otherwise rendered unusable, CMS is allowing DME Medicare Administrative Contractors (MACs) to have the flexibility to waive replacements requirements such that the face-to-face requirement, a new physician’s order, and new medical necessity documentation are not required. Suppliers must still include a narrative description on the claim explaining the reason why the equipment must be replaced and are reminded to maintain documentation indicating that the DMEPOS was lost, destroyed, irreparably damaged, or otherwise rendered unusable or unavailable as a result of the emergency.

**Waiver Effective Until**: September 14, 2022

* + 1. **Medicare Appeals in Fee for Service (FFS), Medicare Advantage (MA) and Part D**
* CMS is allowing Medicare Administrative Contractors (MACs) and Qualified Independent Contractors (QICs) in the FFS program pursuant to 42 CFR §405.942 and 42 CFR §405.962 (including for MA and Part D plans), as well as the MA and Part D Independent Review Entities (IREs) under 42 CFR §422.562, 42 CFR §423.562, 42 CFR §422.582 and 42 CFR §423.582, to allow extensions to file an appeal**.** CMS is allowing MACs and QICs in the FFS program under 42 CFR §405.950 and 42 CFR §405.966 and the MA and Part D IREs to waive requests for timeliness requirements for additional information to adjudicate appeals.
* CMS is allowing MACs and QICs in the FFS program under 42 CFR §405.910 and MA and Part D plans, as well as the MA and Part D IREs, to process an appeal even with incomplete Appointment of Representation forms as outlined under 42 CFR §422.561 and 42 CFR §423.560. However, any communications will only be sent to the beneficiary.
* CMS is allowing MACs and QICs in the FFS program under 42 CFR §405.950 and 42 CFR§405.966 (also including MA and Part D plans), as well as the MA and Part D IREs, to process requests for appeals that do not meet the required elements using information that is available as outlined within 42 CFR §422.561 and 42 CFR §423.560.
* CMS is allowing MACs and QICs in the FFS program under 42 CFR §405.950 and 42 CFR§405.966 (also including MA and Part D plans), as well as the MA and Part D IREs under 42 CFR§422.562 and 42 CFR §423.562 to utilize all flexibilities available in the appeal process as if good cause requirements are satisfied.

**Waiver Effective Until**: September 14, 2022

**II. Comprehensive List of All Waivers**

* 1. **Flexibility for Medicare Telehealth Services**
* **Eligible Practitioners**
  + September 14, 2022
* **Audio-Only Telehealth for Certain Services**
  + September 14, 2022
  1. **Hospitals, Psychiatric Hospitals, and Critical Access Hospitals (CAHs), including Cancer Centers and Long-Term Care Hospitals (LTCHs)**
* **Emergency Medical Treatment & Labor Act (EMTALA)**
  + September 14, 2022
* **Verbal Orders**
  + September 14, 2022
* **Reporting Requirements**
  + September 14, 2022
* **Patient Rights**
  + September 14, 2022
* **Sterile Compounding**
  + September 14, 2022
* **Detailed Information Sharing for Discharge Planning for Hospitals and CAHs**
  + May 7, 2022
* **Limiting Detailed Discharge Planning for Hospitals**
  + September 14, 2022
* **Flexibility in Patient Self Determination Act Requirements (Advance Directives)**
  + September 14, 2022
* **Physical Environment**
  + June 6, 2022
* **Telemedicine**
  + Currently September 14, 2022
  + *Telehealth Extension and Evaluation Act* would create a two-year extension of this waiver
* **Physician Services**
  + September 14, 2022
* **Anesthesia Services**
  + September 14, 2022
* **Written Policies and Procedures for Appraisal of Emergencies at Off Campus Hospital Departments**
  + September 14, 2022
* **Emergency Preparedness Policies and Procedures**
  + September 14, 2022
* **Nursing Services**
  + September 14, 2022
* **Food and Dietetic Services**
  + September 14, 2022
* **Respiratory Care Services**
  + September 14, 2022
* **Expanded Ability for Hospitals to Offer Long-term Care Services (“Swing-Beds”) for Patients Who do not Require Acute Care but do Meet the Skilled Nursing Facility (SNF) Level of Care Criteria as Set Forth at 42 CFR 409.31.**
  + September 14, 2022
* **Medicare Graduate Medical Education (GME) Affiliation Agreement**
  + September 14, 2022
* **CAH Personnel Qualifications**
  + September 14, 2022
* **CAH Staff Licensure**
  + September 14, 2022
* **CAH Status and Location**
  + September 14, 2022
* **CAH Length of Stay**
  + September 14, 2022
* **Temporary Expansion Locations**
  + September 14, 2022
* **Responsibilities of Physicians in Critical Access Hospitals (CAHs)**
  + Currently September 14, 2022
  + *Telehealth Extension and Evaluation Act* would create a two-year extension of this waiver
* **Postponement of Application Deadline to the Medicare Geographic Classification Review Board**
  + September 14, 2022
* **Long Term Care Hospitals - Site Neutral Payment Rate Provisions**
  + September 14, 2022
* **Conditions of Participation (CoP) for COVID-19 Vaccinations**
  + September 14, 2022
* **Hospitals Classified as Sole Community Hospitals (SCHs)**
  + September 14, 2022
* **Hospitals Classified as Medicare-Dependent, Small Rural Hospitals**
  + September 14, 2022
  1. **Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)**
* **Certain Staffing Requirements**
  + September 14, 2022
* **Physician Supervision of NPs in RHCs and FQHCs**
  + September 14, 2022
* **Temporary Expansion Locations**
  + September 14, 2022
* **Housing Acute Care Patients in the IRF or Inpatient Psychiatric Facility (IPF) Excluded Distinct Part Units**
  + September 14, 2022
* **Care for Excluded Inpatient Psychiatric Unit Patients in the Acute Care Unit of a Hospital**
  + September 14, 2022
* **Flexibility for Inpatient Rehabilitation Facilities Regarding the “60 Percent Rule”**
  + September 14, 2022
* **Extension for Inpatient Prospective Payment System (IPPS) Wage Index Occupational Mix Survey Submission**
  + September 14, 2022
* **Care for Patients in Extended Neoplastic Disease Care Hospitals**
  + September 14, 2022
* **Comprehensive Care for Joint Replacement (CJR) Model**
  + September 14, 2022

* 1. **Long-Term Care Facilities and Skilled Nursing Facilities (SNFs) and/or Nursing Facilities (NFs)**
* **3-Day Prior Hospitalization**
  + September 14, 2022
* **Waive Pre-Admission Screening and Annual Resident Review (PASARR)**
  + September 14, 2022
* **Physical Environment**
  + September 14, 2022
* **Resident Groups**
  + May 7, 2022
* **Training and Certification of Nurse Aides**
  + June 6, 2022
* **Physician Visits in Skilled Nursing Facilities/Nursing Facilities**
  + May 7, 2022
* **Resident Roommates and Grouping**
  + September 14, 2022
* **Resident Transfer and Discharge**
  + September 14, 2022
* **Physician Services**
  + September 14, 2022
* **Physician Delegation of Tasks in SNFs**
  + May 7, 2022