



2020 4th Quarter
Volume 14, Issue 4

Compliance Quarterly

From the Compliance Office...

Wishes for the New Year

As I glance at my wall, the calendar now reads 2021. Finally.

So much has changed since we all rang in 2020 with our hopes and dreams for the coming year. It turned out to be a very different, and often difficult, year for everyone. Many called it the “new normal.” I prefer the “temporary normal.”

As we look forward with hope and optimism to a return to some semblance of normal life sometime in the new year, we in the Compliance Office would like to wish all of you and your families health and happiness throughout 2021.

Newsletter Topics

In the *Compliance Quarterly*, we focus on currently relevant Compliance & HIPAA topics, regulatory updates, and helpful tips. If anyone has a topic you would like to see covered, general or practice-focused, in a future edition of *Compliance Quarterly*, please contact Sue Marasi (smmarasi@buffalo.edu).

Compliance Training Update

New Provider E/M & Documentation Training

New Provider E/M & Documentation Training is now available online by visiting the Education & Training page on the UBMD Compliance website.

<https://ubmd.com/about-ubmd/Compliance/Education-training.html>

You may also schedule a Zoom meeting with Bev Welshans if you have questions, or would like to discuss anything with her.

Lunch-n-Learn

Sessions are usually held once a month. Bring your lunch, and join us as we cover a variety of important topics related to coding and compliance! AAPC & AHIMA CEUs are often available for the sessions. All are welcome to attend.

If you would like to be added to the session contact list, please contact Bev as noted to the right.

Due to the COVID-19 pandemic, Lunch-n-Learn sessions are currently on hold, but will be rescheduled once a new methodology for the training can be developed. At that time, an email will be sent to those on the contact list. If you wish to be added to the contact list, please contact Bev Welshans.



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Training Questions

If you have questions on any training, please contact

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HIPAA Compliance Issues

By: Lawrence C. DiGiulio, Chief Compliance Officer

2020 saw a whirlwind of changes in the healthcare world as Corona Virus spread across the globe crippling economies and causing UBMD to change the way we provide care to our patients. While telehealth, reimbursement and copay requirements all relaxed in some ways, HIPAA regulations and enforcement continued unaffected by virus or the swirl of associated consequences. We talked earlier in the year about the need to ensure that media is not allowed in our facilities because the Office of Civil Rights, the federal government entity charged with HIPAA enforcement, issued reminder guidance that every patient in a facility would have to give consent before media is allowed on premises.

The most frequent enforcement action taken by OCR this year was the crackdown on providers who have not given patients access to their medical records within 30 days of the patients request. Fourteen different enforcement actions were taken and there is no end in sight. OCR is actively investigating even more violations as there have been a flurry of complaints calling for its attention. Our Compliance Plan provides that we follow HIPAA rules and provide requested records within the 30-day time period in the format requested by the patient whether that be electronic or paper. Continued vigilance in this area will be required in 2021 as well. We will continue to monitor proposed changes to HIPAA regulations that will shorten the time to respond to these requests to 15 days.

OCR is also continuing to prosecute important cases relating to hacking medical records. Medical records and medical practices are frequent targets from hackers. Our medical records hold a treasure trove of information that can be used to generate revenue for bad actors across the world. Hackers can fail every time but one and be successful. We can win every time but one and be considered a failure worthy of a multimillion dollar fine. The Athens Orthopedic Clinic case is instructive in this area. Unknown to the practice, their systems were penetrated and patient information was made available for sale on line. The practice didn't respond as they should and did not have a robust compliance plan to rely on. As a result, it was fined \$1,500,000 by OCR. OCR Director, Roger Severino said, "Health care providers that fail to follow the HIPAA Security Rule make their patients' health data a tempting target for hacker." We have to follow our policies to make sure our patients' health data is secure from hackers' attempted theft.

All the policies in the world won't protect us from one unthinking mouse click. A UBMD practice has had two phishing emails sent to its employees allegedly from their practice plan Chair and President. The email asked for the employee's cell phone number and had a link to click. Often times, this is how identity theft or attacks on healthcare providers begin. Once a link is clicked, malware is injected into the computer system that gives access to the hacker who then has time to map the system and plot the best way to steal data from it. We have to be careful and not provide any personal data or click links from emails unless we know they are safe. Otherwise, we are making our patients' PHI too tempting a target for hackers from around the world.

While we are talking about HIPAA issues, we should also reemphasize that we are not permitted to review medical records that are unassociated with our job functions. This means we also can't review our own medical records. There has been an uptick in investigations from HealtheLink for this issue. Our access to hospital, HealtheLink and our own systems are audited on a regular basis. Improper access is a reason for discipline up to and including termination from employment.

We started out talking about the changes we have reacted to since COVID dramatically changed our business model. If you are working from home, you are still responsible for HIPAA compliance. You first need your supervisor's permission if you need to take any paper PHI at home. Once home, that paper PHI must be locked when you are not using it and you must return it to the office to dispose of it in the shred bins. Likewise, when working electronically, you must ensure that nobody in your house can see PHI on your screen. When you get up from your work area, the computer must be locked just like you are in the office. The Compliance Office is available to answer any work from home questions or any other compliance related issues that you have. Feel free to email us, call us or reach out through our compliance web site located on the UBMD site and found at: <https://ubmd.com/about-ubmd/Compliance.html>.

CPT Changes for 2021

By: Beverly Welshans, CHC, CPMA, CPC, COC, CPCU, CCSP
 Director of Audit & Education



The Coding Corner

Every year the CPT-4 manual goes through significant changes effective January 1st. January 2021 is no exception. There are 329 coding changes; 206 new codes, 54 deleted codes and 69 revised codes for 10,623 codes in 2021 CPT-4 code set.

Let us take a closer look at these changes.

Section	Added	Deleted	Changes
E/M	2	1	17
Anesthesia	0	0	0
Surgery	11	11	28
Radiology	2	2	6
Path/Lab	43	1	9
Medicine	18	9	4
Category II	0	0	1
Category III	45	23	1
PLA (Proprietary Lab Analyses)	85	7	3

We have discussed the Evaluation & Management changes for Office and Other Outpatient services extensively. CPT code 99201 was deleted, codes 99202-29215 were revised with the new level determining factors replacing the complex bullet system, and two new codes were added.

99417 *Prolonged office or other outpatient evaluation and management service(s), each 15 minutes. (G2212 for Medicare)* This is an add-on to be used with 99205 or 99215 when billing based on time.

99439 *Chronic care management services with the following required elements: multiple (two or more) chronic conditions expected to last at least 12 months, or until the death of the patient, chronic conditions place the patient at significant risk of death, acute exacerbation/decompensation, or functional decline, comprehensive care plan established, implemented, revised or monitored; each additional 20 minutes of clinical staff time directed by a physician or other qualified health care profession, per calendar month.*

There were minimal changes to other sections of the CPT-4 manual compared to previous years. The surgery section has several revision in the integumentary codes with verbiage changes to many of the breast procedures codes 11970 – 19380.

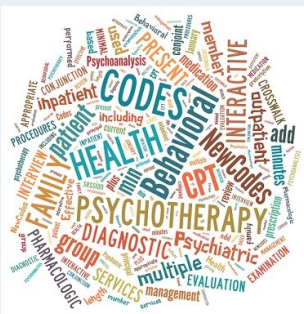
Two musculoskeletal codes were revised, 29282 and 29823, to further specify the discrete structures and number of them debrided: *1 or 2 for 29282, and 3 for 29283 (eg, humeral bone, humeral articular cartilage, glenoid bone, glenoid articular cartilage, biceps tendon, biceps anchor complex, labrum, articular capsule, articular side of the rotator cuff, bursal side of the rotator cuff, subacromial bursa, foreign body[ies]).*

There are a few changes in the respiratory system which bundle imaging into the procedure being performed (32405 replaced by 32408). A concept we have seen on previous years with multiple codes.

Cardiovascular coding underwent significant verbiage changes for codes 33990 – 33993, and three new codes for TAS and TIS procedures: 33741, 33745 and 33746. Cardiac assist codes were revised 33990-33993; and two new codes added, 33995 and 33997, for insertion and removal of right heart venous assist device.

Genitourinary has a few changes including new code for HIFU ablation of malignant prostate tissue, 55880. Code 57465 added for computer-aided of the cervix uteri during colposcopy. Codes 57112 and 58293 were deleted.

Neurology codes 61870, 62163, 63180, 63182 were deleted. Codes for nerve injections, 64455-64484, were revised and include imaging guidance (fluoroscopy or CT).



Please feel free to contact
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Code 69605 deleted, and new codes 69705/69706 added for nasopharyngoscopy with eustachian tube dilation.

Radiology codes 71250, 71260 and 71270 revised to include *diagnostic* in the description.

Pathology/laboratory see the most changes for 2021. Ten new codes were added for therapeutic assays 80143-80210, including Acetaminophen, Methotrexate and others. Numerous molecular pathology codes were added.

New codes for COVID-19 labs 86328-87811.

New codes for COVID-19 vaccines; those that utilize messenger RNA 91300 Pfizer-BioNTech and 91301 Moderna. 91302 for those using viral DNA under development by AstraZeneca and the University at Oxford.

Codes 92517-92519 are new vestibular evoked potential testing. A few new auditory evoked potentials added 92650-92653. Codes 93241-93248 add increased time increments for electrocardiographic recording. Pulmonary changes include deletion of 94250, 94400, 94750 along with revision of 94617 to include electrocardiographic recording and addition of 94619 without electrocardiographic recording (s).

This list does not contain all of the changes, rather it highlights key areas. Be sure to review the CPT-4 2021 manual for all updates and pertinent usage guidelines.

General Compliance: New UBMD Compliance Office Website

By: Sue Marasi, CHC, CPCA, Compliance Administrator

Those of you who have been with UBMD for a long time may recall that, at one time, the Compliance Office had a website site linked to a separate website. Since we didn't have any direct access to site changes, it was difficult to maintain and keep up to date. Requested changes often took weeks to be uploaded to the site. It wasn't the most user-friendly site, and we couldn't put training programs on it as we would have liked. A few years ago, we found that our site had somehow disappeared. It was found by IT personnel and brought back online, only to have it disappear again. It was brought back one more time, but much of the information on the site was missing. It then disappeared a final time, never to be found again.

Since then we have been trying to find the best way to get a user-friendly, training-friendly site that could be updated as needed, and we finally have! At this time, we want to send out a huge thank you to UBMD's Director of Marketing & Communications, Megan Veirs, who worked with and guided us over the past several months to get our platform up and running. We definitely could not have accomplished our goal of getting this site up and running in 2020 without her.

The compliance website is now a part of the UBMD.com website, under the "About UBMD" tab. The direct link is:

<https://ubmd.com/about-ubmd/Compliance.html>

The website serves as one-stop shopping for all things compliance - general information, document templates, training, and more! I'd like to briefly outline the sections for you at this time, just to give you a basic idea of what can be found there.

Home Page: Gives a brief description of our goals, and includes contact information for our office.

Practice Plan Compliance Contacts: Lists compliance contact information for each practice plan. (If this contact information for your practice changes, we ask that you please let us know so that we can make the change.)

UBMD's Compliance Plan: Includes a link to view our Compliance Plan, briefly explains what the Compliance Plan is, and explains the OIG's essential elements that the compliance program is based on.

Compliance Hotline & Reporting: Explains the purpose of the Compliance Hotline and how to confidentially report known or suspected fraud, abuse, problems, concerns, violations of law and HIPAA related concerns. Includes a link to a printable Hotline flier; a copy of which should be displayed where it is visible to employees in all practice locations. Also includes a link to our new printable Compliance Issue Reporting Form, offering another avenue for reporting issues. You will also notice that our UBMD Compliance Hotline number is included at the bottom of every website page, illustrating the importance of reporting known and suspected Compliance issues.



HIPAA Policies & Procedures: Briefly describes and has links to further information for the HIPAA Privacy, Security and Breach Notification Rules. Includes a link to our HIPAA training which is required for all new employees, and all employees annually thereafter. Also includes links to templates for our Business Associate Agreement, and Notice of Privacy Practices for your use.

Laws & Regulations: Briefly describes several laws and regulations that all UBMD employees should be familiar with. Also includes links to more in depth information on most. A section on Monitoring Exclusionary Databases is included here as well, with links to the exclusionary databases that must be checked monthly and those that must be checked when credentialing or re-credentialing providers.

Auditing & Monitoring: Includes the following sections:

- 95/97 CMS Guidelines and UBMD 1995 Physical Exam Rules;
- Coding & Documentation, which offers guidance on PATH requirements, Student Documentation of E/M Services, Non-Physician Practitioners, and Scribes;
- Monitoring Exclusionary Database guidelines;
- Electronic Medical Records, which breaks down what providers are responsible for and required to do in EMRs, template use, cloning, and Electronic Health Record Audits (which all practices are required to conduct on a quarterly basis).

Education & Training: Explains what training is required and for whom. Also includes the following and more:

- *New Provider Training*, which all new providers are required to complete. It also serves as a great refresher for other providers. Used to be in-person training, but now is conveniently available on line.
- *New Employee Training* includes all compliance training required for new employees all in one place - Compliance Office contact info; Hotline flier and the new Compliance Issue Report form; Compliance Plan copy and Employee Acknowledgement form which must be signed by all employees and kept in their HR files; a Compliance Plan Power-Point training presentation; HIPAA training; Fraud, Waste & Abuse training, and Sexual Harassment training. Also includes a newly created checklist to assist HR personnel in ensuring all necessary training is completed. Note that some of this training (HIPAA, FWA, Sexual Harassment) is also required annual training for ALL existing UBMD employees as well.
- *Lunch-n-Learn* sessions are normally held once per month, during lunch hour. Participants are invited to bring their lunch and join as a variety of topics are covered related to coding and compliance. AAPC and AHIMA CEUs are often available for attendees. **Due to the COVID-19 pandemic, Lunch-n-Learn sessions are currently on hold, but will be rescheduled once a new methodology for the training can be developed. At that time, an email will be sent to those on the contact list. If you wish to be added to the contact list, please contact Bev Welshans.**

Compliance Quarterly Newsletter: Includes past editions of the *Compliance Quarterly* newsletter, going back five years. Plenty of helpful information can be found in the articles here. Drop down menus list the topics covered in each newsletter.

Compliance FAQs & Definitions: This section is still being developed.

Helpful Links & Resources: Includes links to helpful reference websites, such as the OIG and CMS. More will be added over time.

This website has been a long time coming, and a lot of work has gone into gathering and putting together content that would assist our office and all UBMD practice plan personnel maintain and continuously improve our compliance program. Our hope is that this website will create more accessibility to our tools, required training and other compliance requirements, provide more open communication, and provide you all with a good source for information, all of which help to make our compliance program an effective one.

When you have some time, please visit our site, and look around. If you have any questions, please contact us.

CMS 2021 Medicare Physician Fee Schedule Significantly Expands Telehealth Coverage & the Use of Non-Physician Practitioners



This article, written by Adam M. Walters of Walters Law PC, is from AHLA's Physician Organizations Practice Group.

The Centers for Medicare & Medicaid Services (CMS) on December 1, 2020 released its Final Rule for the Medicare Physician Fee Schedule (PFS) for Calendar Year 2021. [\[1\]](#) The Final Rule will be published in the *Federal Register* on December 28, 2020.

This article summarizes reimbursement and policy changes concerning telehealth and non-physician personnel.

By way of background, since January 1, 1992, Medicare has reimbursed physician services under a physician fee schedule that takes into account national relative values for work, practice expense, and malpractice. [\[2\]](#) Each year, CMS publishes a final rule that, in concurrence with previous final rules, sets forth how Medicare reimburses practitioners and other policy changes.

The COVID-19 pandemic highlighted the necessity and convenience of telehealth. The Final Rule was heavily influenced by the COVID-19 Public Health Emergency (COVID-19 PHE). For instance, President Trump issued executive orders directing the Department of Health and Human Services Secretary to propose a regulation expanding the number of telehealth services available to Medicare beneficiaries during and after the COVID-19 PHE and to make Medicare reimbursement no less restrictive than state scope of practice laws. [\[3\]](#) Accordingly, the Final Rule expands coverage for telehealth. It adds, among other things, an unusually high number of telehealth services to the PFS and creates a new category for temporary coverage for telehealth services. In addition to telehealth services, the PFS makes broad reimbursement policy changes concerning the use and supervision of non-physician practitioners and auxiliary personnel.

Telehealth

First, CMS has expanded the list of services that may be furnished via telehealth. For context, every year CMS, through the PFS, adds telehealth services that are covered by Medicare. [\[4\]](#) These services are added to 1 of 2 categories. Category 1 consists of services that are similar to professional consultations, office visits, and office psychiatry services currently on the Medicare telehealth services list. [\[5\]](#) Category 2 consists of services that are not similar to those on the current Medicare telehealth list, but when furnished via telehealth, produce a demonstrated clinical benefit to the patient. [\[6\]](#) This year, CMS added nine services, on a permanent basis:

- Visit complexity inherent to evaluation and management associated with primary medical services that serve as the focal point for all needed health care services—HCPCS Code GPC1X;
- Group psychotherapy—HCPCS Code 90853;
- Neurobehavioral Status Exam—HCPCS Code 96121;
- Prolonged Services—HCPCS Code 99XXX;
- Assessment and care planning for patients with cognitive impairment—HCPCS Code 99483;
- Domiciliary or rest home services for established patients—HCPCS Code(s) 99336 and 99337; and,
- Home visits for the evaluation and management of an established patient—HCPCS Code (s) 99347 and 99348. [\[7\]](#)

The addition of nine services is unusually high—in 2019, CMS only added three services to Category 1.

The PFS also finalizes the third temporary category of criteria for adding telehealth services during the pandemic. These are services added during the PHE for which there is a likely clinical benefit outside of the PHE when furnished via telehealth, but for which there is not yet sufficient evidence available to consider the services as permanent additions under Category 1 or 2. [\[8\]](#) Category 3 services will remain on the Medicare telehealth list through the end of the calendar year in which the COVID-19 public health emergency ends. [\[9\]](#) In the PFS, CMS added nearly 60 codes from the following services:

- Domiciliary, Rest Home, or Custodial Care services for established patients;
- Home visits for established patients;
- Emergency Department visits, levels 1-5;
- Nursing facilities discharge day management;
- Psychological and Neuropsychological Testing;
- Physical and Occupational Therapy;
- Subsequent Observation and Observation Discharge Day Management;
- Initial Hospital Care and Hospital Discharge Day Management;
- Inpatient Neonatal Intensive Care Services;
- Continuing Neonatal Intensive Care Services;
- End-Stage Renal Disease Capitated Services; and,
- Critical Care Services. [\[10\]](#)

Under the Final Rule, CMS may add services to Category 3 without going through the rulemaking process for the remainder of the COVID-19 public health emergency.

Direct Supervision

Generally, auxiliary personnel providing services “incident to” a physician or non-physician practitioner must be directly supervised by the physician or non-physician practitioner. [\[11\]](#) In response to concerns that the added presence of a physician may increase infection risk, the May 1, 2020 COVID-19 interim final rule with comment period (May 1 IFC) temporarily allowed “direct supervision” by real time, interactive means throughout the COVID-19 PHE. [\[12\]](#) The Final Rule states that this deviation from the normal policy will last until the latter of the end of the calendar year in which the COVID-19 PHE ends or December 31, 2021. [\[13\]](#)

Scope of Practice

The PFS significantly broadens the scope of practice—in the context of Medicare reimbursement—for non-physician practitioners (NPPs), pharmacists, and therapy assistants.

Non-Physician Practitioners

Prior to the COVID-19 PHE, NPPs, e.g. nurse practitioners (NPs), clinical nurse specialists (CNSs), physician assistants (PAs), and certified nurse-midwives (CNMs), could order and perform diagnostic test, but only physicians could supervise the performance of such test. [\[14\]](#) The May 1 IFC, however, allowed NPs, CNSs, PAs, and CNMs to supervise diagnostic tests for the pendency of the COVID-19 PHE. The PFS makes this new policy permanent, i.e. NPPs will be able to supervise tests after the COVID-19 PHE ends, and adds Certified Registered Nurse Anesthetist to the list of NPPs. [\[15\]](#)

Therapy Assistants

Prior to the COVID-19 PHE, Medicare Part A reimbursed maintenance therapy services performed by therapy assistants, i.e. physical therapy assistants and occupational therapy assistants. Part B, however, limited reimbursement to maintenance therapy services performed by physical and occupation therapists. The May 1 IFC brought parity and allowed reimbursement for maintenance therapy services performed by physical therapy assistants and occupational therapy assistants. [\[16\]](#) The PFS makes this change permanent.

With these changes, there should be a significant expansion in the use of telemedicine, during the pandemic and thereafter, as well as greater use of NPPs when treating Medicare beneficiaries.

- [1] Medicare Program: CY2021 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program; etc., <https://public-inspection.federalregister.gov/2020-26815.pdf> (hereinafter “2021 Medicare Physician Fee Schedule”) (last accessed Dec. 9, 2020).
- [2] Social Security Act (SSA) § 1848; 56 Fed. Reg. 59502.
- [3] Exec. Order No. 13941, 85 Fed. Reg. 47881 (Aug. 3, 2020); Exec. Order No. 13813, 85 Fed. Reg. 53573 (Oct. 3, 2020).
- [4] SSA § 1843(m)(4)F(ii); 42 C.F.R. 410.78(f).
- [5] 2021 Medicare Physician Fee Schedule at 104.
- [6] *Id.* at 104-105.
- [7] *Id.* at 109-114.
- [8] *Id.* at 121.
- [9] *Id.* at 130.
- [10] *Id.* at 128-133.
- [11] 42 C.F.R. § 410.26.
- [12] 85 Fed. Reg. 19245.
- [13] [2021 Medicare Physician Fee Schedule](#) at 178-180.
- [14] 85 Fed. Reg. 27550, 27559.
- [15] 2021 Medicare Physician Fee Schedule at 323.
- [16] 85 Fed. Reg. 27550.

“The measure of a man’s character is what he would do if he knew he never would be found out.”

~ Thomas Babington

UBMD Compliance Office Website: <https://ubmd.com/about-ubmd/Compliance.html>

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UBMD COMPLIANCE HOTLINE: 716.888.4752

Report suspect fraud/abuse, potential problems,
or HIPAA concerns.

Ask questions or request guidance | Provide relevant information.

Remain anonymous if you wish | Non-retaliation policy will be adhered to.

(This is a voice mail box monitored during working hours. If there is an immediate threat to person or property, do not leave message; contact direct supervisor immediately!)

Compliance Quarterly Quiz

To submit your quiz answers, please click link below:

[2020 Fourth Quarter Quiz](#)

1. According to HIPAA, patients currently must be given access to their medical records within ____ days of their request.
 - A. 14
 - B. 21
 - C. 30
 - D. 60

2. Regarding HIPAA compliance, which statement is correct when working from home?
 - A. You must have your supervisor's permission if you need to take any paper PHI home and, when done with it, it must be returned to the office to dispose of it in shred bins.
 - B. When at home, that paper PHI must be locked up, where family cannot access it, when you are not using it.
 - C. You must ensure family members cannot see PHI on your screen and, when you walk away, your computer must be locked, just like when you are in the office.
 - D. All of the above are correct.

3. The 2021 CPT code used for COVID-19 vaccines is the same for all vaccine manufacturers.
 - A. True
 - B. False

4. The 2021 CPT-4 manual went through significant changes. There are _____ coding changes, so you should be sure to review the CPT-4 2021 manual for all updates and pertinent usage guidelines.
 - A. 329
 - B. 10,623
 - C. 150
 - D. 602

5. The new UBMD Compliance Website offers one-stop shopping for all things compliance including general information, document templates, training, and more.
 - A. True
 - B. False