CMS adds additional regulatory flexibilities
In follow-up to its March 31 interim final rule with comment period, the Centers for Medicare & Medicaid Services (CMS) last week announced a second set of wide-reaching changes in response to the COVID-19 pandemic. CMS made the changes through a combination of its rulemaking authority and 1135 blanket waiver authority, the latter of which having been broadened by the recently passed CARES Act.

The changes clarify or modify previously issued policies, such as billing rules for new temporary services, as well as implement new policies in response to continued stakeholder feedback. Of note, CMS is instituting changes aimed at improving diagnostic testing, including flexibilities around ordering COVID-19 tests for beneficiaries and covering certain serology tests. CMS is also implementing new policies to support its “Hospitals Without Walls” initiative – including allowing payment for outpatient hospital services in temporary expansion locations (e.g., parking lot tents).

CMS is also making more expansive changes to current telehealth regulations for use during the COVID-19 pandemic response. This includes expanding the list of eligible providers that can furnish telehealth services, as well as broadening the list of services that providers can furnish via audio-only technologies (i.e., telephones). CMS is also planning to expedite the process by which it adds new services to the approved Medicare telehealth list through using a sub-regulatory process that bypasses the standard notice and comment procedures. Comments on the interim final rule are due within 60 days, although applicability is retroactive for many provisions.

CMS also added several new blanket waivers, which were last updated on April 21, 2020. The new flexibilities announced last week are applicable beginning March 1, 2020, and are indicated in red on the CMS running list. They include waivers related to telehealth, ambulatory surgery centers, rural health centers, long-term care, home health agencies and hospice.

New Frequently Asked Questions on EMTALA

CMS issued Frequently Asked Questions (FAQs) clarifying requirements and considerations for hospitals and other providers related to the Emergency Medical Treatment and Labor Act.
AzHHA and AzCHER hospital member alert – COVID-19

(EMTALA) during the COVID-19 pandemic. The FAQs address questions around patient presentation to the emergency department, EMTALA applicability across facility types, qualified medical professionals, medical screening exams, patient transfer and stabilization, telehealth and other topics.

FDA issues emergency use authorization for remdesivir
Recently, the Food and Drug Administration (FDA) issued an Emergency Use Authorization (EUA) for the investigational antiviral drug remdesivir for the treatment of hospitalized adults and children with COVID-19. The FDA notes that while there is limited information about the effectiveness of remdesivir, the drug has demonstrated in a clinical trial to shorten the time to recovery in some patients.

The FDA determined that remdesivir meets the criteria for an EUA based on scientific evidence that the drug may be effective in treating COVID-19, and given that there are no adequate, approved, and available alternatives to treat COVID-19. The EUA allows for remdesivir to be distributed to hospitals and administered by health care providers, as appropriate, to treat suspected or confirmed cases of COVID-19 with severe disease.

The FDA also provided fact sheets for healthcare providers and patients and caregivers on remdesivir as a COVID-19 treatment. These include dosing instructions, potential side effects, and drug interactions.

HHS announces distribution of $22 billion from CARES Act
The Department of Health and Human Services (HHS) announced it will begin distribution this week of $22 billion from the CARES Act to hospitals in “hot spots” and rural hospitals, many of which were operating on thin margins prior to COVID-19 and are now particularly devastated by this pandemic.

The $10 billion rural distribution will go to rural acute care general hospitals and Critical Access Hospitals (CAHs), Rural Health Clinics (RHCs), and Community Health Centers located in rural areas. Arizona providers will receive approximately $82.9 million.

Hospitals and RHCs will each receive a minimum base payment plus a percent of their annual expenses. Rural acute care general hospitals and CAHs will receive a minimum base level of at least $1 million with additional payment based on operating expenses.

This expense-based method accounts for operating cost and lost revenue incurred by rural hospitals for both inpatient and outpatient services. The base payment will account for RHCs with no reported Medicare claims, such as pediatric RHCs, and CHCs lacking expense data, by ensuring all clinical, non-hospital sites receive a minimum level of support no less than $100,000, with additional payment based on operating expenses.
AzHHA and AzCHER hospital member alert – COVID-19

HHS is distributing $10 billion “hot spot” pool to 395 hospitals who provided inpatient care for 100 or more COVID-19 patients through April 10, 2020, and will distribute an additional $2 billion to these hospitals based on their Medicare and Medicaid disproportionate share and uncompensated care payments. Arizona hospitals are expected to receive $23.2 million of this distribution.

Eligible providers will begin receiving funds in the coming days via direct deposit, based on the physical address of the facilities as reported to the Centers for Medicare and Medicaid Services (CMS) and the Health Resources and Services Administration (HRSA), regardless of their affiliation with organizations based in urban areas.

COVID-19 Updates
Ensure your hospital response team is on AzHHA’s COVID-19 member advisory distribution list. Visit our website https://www.azhha.org/covid19 and sign up to receive future member advisories and COVID-19 updates.

Due to the COVID-19 pandemic status, AzHHA is sharing its member advisory with all Arizona hospital and healthcare members in an effort to get you the information you need to care for patients in your communities.

Questions? Contact us at Communications@AzHHA.org.