

**2020 SMP/SHIP  
National Conference**

July 21-23, 2020



**COPING WITH MEDICARE AND  
COVID-19: THE NEW NORMAL**

**July 21, 2020**

*Center for Medicare  
Advocacy & Passages  
HICAP/California Health  
Advocates*

# AGENDA

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- I. Overview of COVID-19 Related Medicare Changes
- II. Focus on Impact to Nursing Facility Residents
- III. Response by SHIPs, Medicare Beneficiaries

# I. Overview of COVID-19 Related Medicare Changes

# Medicare & COVID-19: Overview

- 4 bills passed Congress (so far), most changes pursuant to interim final rules and guidance from CMS resulting in many waivers
- Most of the Medicare-related changes are temporary and have been made retroactive to March 1, 2020, and will last until the Public Health Emergency (PHE) related to the COVID-19 crisis is lifted
- Include significant expansion of telehealth, flexibilities for providers (incl. scope of practice, across state lines), ability of hospitals, facilities to provide services in alternate locations
- Suspension of many reporting requirements, provider oversight

# Telehealth

- Covers range of providers and services, including: doctors, nurse practitioners, clinical psychologists, and licensed clinical social workers; more recently, PT/OT/STs
- Covers types of routine visits, mental health counseling, preventive health screenings for cancer and other illnesses
- Most telehealth services require audio and video chat/function at home or any health care facility
  - Audio-only telehealth appears more limited
  - Compare to Virtual check-ins and E-visits

# Telehealth (cont'd)

- Cost-sharing can be charged, but providers can reduce or waive it at their discretion
  - Dept of Health and Human Services, Office of Inspector General (OIG) says providers will not be subject to sanctions for reducing or waiving cost-sharing
- Beware of fraud – particular telephone scams
  - E.g., fake “coronavirus emergency kits”
- Concerns – permanent expansion could exacerbate health disparities; already used to weaken Medicare Advantage network adequacy standards

# COVID-19 Testing and Treatment

- Testing generally covered with no cost-sharing
  - COVID-19 test: cost-sharing for provider visits during which a COVID-19 diagnostic test is administered or ordered is covered with no cost-sharing in either traditional Medicare or an MA plan
- Vaccine: when available, all Part D plans (and MAPD) required to cover
- Treatment – cost-sharing can apply
  - MA plans may waive cost-sharing for COVID-19 treatments per CMS guidance

# Home Health

- Homebound requirement loosened, not waived
  - Definition of “confined to home” is expanded under the PHE to include medically contraindicated as follows:
    - Due to a confirmed or suspected diagnosis of COVID-19, or
    - The patient has a condition that may make the patient more susceptible to contracting COVID-19
- Physician Assistants, Nurse Practitioners and Clinical Nurse Specialists allowed to order HH services



# Medicare Appeals – Parts A, B, C and D

- Extension to file an appeal
- Waive timeliness for request for additional information to adjudicate the appeal
- Processing the appeal even with incomplete Appointment of Representation forms but “communicating” to the other party (beneficiary to provider or provider to beneficiary)
- Process requests for appeal that do not meet the required elements using information that is available
- Using all flexibilities available in the appeals process as if good cause requirements are satisfied

# Medicare Advantage (MA) Requirements

- 42 C.F.R. 422.100(m) authorizes special requirements during a disaster or emergency related to Medicare. MA plans must:
  - Cover benefits at non-contracted facilities as long as those facilities have participation agreements with Medicare.
  - Waive, in full, gate-keeper referral requirements.
  - Provide same cost-sharing for in and out-of-network.
  - Make changes immediately without 30-day notification, e.g. reductions in cost sharing, waiver of prior-authorization.

# MA Flexibilities

- Examples of possible MA Plan waivers (must do so uniformly):
  - Remove prior-authorization requirements
  - Waive cost-sharing for COVID-19 treatments (plans must not charge for tests)
  - Waive prescription refill limits; relax restrictions on home delivery
  - Expand access to telehealth
  - Implement new or expanded benefits (e.g. meal delivery, medical transportation)

## II. Impact on nursing home residents

# Impact on nursing home residents

- Many waivers of resident protections (“flexibilities”)
- Elimination of facility reporting requirements
- Suspension of all standard and complaint surveys
- Suspension of all enforcement actions, except for “immediate jeopardy”

# Waivers of resident protections

- Ban on visitors (family, ombudsmen) since mid-March
- Residents largely confined to their rooms
- Transfer/discharge notices for purposes of “cohorting” (grouping residents by COVID-19 status)
  - But facilities are actually discharging residents for other reasons without advance notice

# Waiver of resident protections

- Nurse aide training requirements
  - Federal law: facilities cannot use aides for more than 4 months unless trained (75 hours are federal minimum) and competent
  - CMS waived training requirement
  - Nursing home trade associations developed 8-hour on-line training program, which many states accept as sufficient
    - What happens to these workers when public health emergency ends?

# Elimination of facility reporting requirements

- Staffing information
  - Payroll-based staffing information not reported, but recently reinstated for second quarter 2020
  - Since May 8, facilities report staffing to CDC
- Resident assessment information
  - Information is used for Quality Measure domain on Nursing Home Compare



# Suspension of standard (annual) and complaint surveys (since March)

- Only 2 types of surveys are being conducted
  - Targeted infection control surveys
  - Complaints and facility-reported incidents that states triage as immediate jeopardy

# Targeted infection control surveys

- 5400+ surveys, March - June
  - Less than 3% (163) cited infection control deficiency
    - 161 deficiencies were “no harm;” 1 actual harm; 1 immediate jeopardy
  - Not plausible result, since infection control is #1 deficiency cited in nursing facilities
    - GAO, *Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic*, GAO-20-576R (May 20, 2020)

# Immediate jeopardy surveys

- June 4 release of survey reports included 20 immediate jeopardy surveys
  - Largely abuse, supervision

# Concerns

- Waiver of long-standing protections
- No oversight (family, ombudsmen, limited state)
- More money (increased Medicare and Medicaid reimbursement)
- State grants of immunity from liability

# Changes needed for the future

- Need for better staffing (more RNs), higher wages and benefits (including paid sick leave) for aides
- Recognition of importance of federal standards of care, stronger enforcement
- Better control over ownership/management
- Better accounting for reimbursement (medical loss ratio)

# Resources

- See, generally, Center for Medicare Advocacy's website at: [www.medicareadvocacy.org](http://www.medicareadvocacy.org)
- COVID-19 Specific info:
  - See Website for COVID-19 (Coronavirus and Medicare), updated daily with materials from CMS and others:  
<https://www.medicareadvocacy.org/medicare-info/covid-19-coronavirus-and-medicare/>
  - CMA Advocates Guide re: COVID-19 and Medicare:  
<https://www.medicareadvocacy.org/covid-19-an-advocates-guide-to-medicare-changes/>

## III. Response by SHIPs and Medicare Beneficiaries

# SHIPs And The New Normal





# Consider....

- Differences from other disasters
- Challenges and opportunities
- Lessons learned for the next emergency

# A local perspective – The Paradise Fire



- 153,336 acres
- 13,972 residences
- 528 commercial
- 4,293 other buildings
- 86 fatalities
- 27,000 people were affected
- 22,000 applied for FEMA

# Affects on the Aging Community



- Loss of home, family, pets, and friends
- Homelessness or living in a shelter
- Harder to contact via phone or email
- Traumatized state of mind
- Transfer of records wasn't quick enough
- Loss of local medical providers
- No transportation
- Complicated system to navigate
- Had to rebuild lives

# Community got together



- Central resource center created
- New partnerships formed: Homeless shelters, evacuation centers, churches, campgrounds, RV parks
- Medicare counseling continued- but in a different way
  - Telephone, handouts, flyers
- Most urgent needs: medications
- Outreached to pharmacies
- HICAP helped SNFs and RCFEs with Part D needs of their new residents
- And new scams popped up!

# COVID –

## What's the NEW Normal for SHIPs?

### Challenges:

- Isolation: both clients and counselors
- Working from home
- Technology
- Traumatized state of mind and depression
- Complicated system to navigate
- Social Distancing
- New Scams!

### Opportunities:

- While maintaining social distancing
  - New counseling site designs
  - Purchase mobile phones and tablets for counselors
  - Partnership with higher education Distance Learning programs
  - Strengthen existing partnerships
  - Be more like an I&R – build your resource options

# New Counseling Site Design?



# AEP: How will SHIPs Adapt or Change?

- Plan on no in-person counseling
- If working from home: ensure counselors have all the technology and supplies they need
  - Maintain strict privacy protocols
- Advertise your services
- Collaborate with partners

# Beneficiaries Are Traumatized...

- Regardless of emergency
  - Depression and trauma continues
  - Listen! Clients like to talk
  - They are more susceptible to scams
  - Get their stories – very helpful to share with legislators



Confusion  
Fear  
Uncertainty  
Worry

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Isolation  
Loneliness  
Limited English  
Proficiency



# Reported COVID-19 Scams

- Free virus test kits in exchange for Medicare #
- Imposter scam using COVID 19
- Grandchild needs \$\$; stuck in Philadelphia because of the virus
- Unauthorized test kits sold online (always consult your MD)
- At-home serology tests sold online (no FDA approval)
- Phony coronavirus contact tracers
- Email or text message
- Claims senior was in contact with someone who had COVID
- Ask people to follow links to capture private information

# 1000% Increase in Suspicious COVID Websites

- **Email** - “CoronaVirus Pandemic Survival Guide - Save Yourself and family. One sneeze on you is all it takes”
- **Text** - “Love your family Michael? Buy your own COVID19 test kit now. The demand is extremely high so hurry up!”
- **Email** - “... supplier in China offering personal protective equipment ...”
- **Sites** appearing to come from CDC or WHO
- Malicious **websites** offering COVID 19 maps, which may download malware

# Fraudulent COVID Claims by Marketers

- FTC: Stop unsubstantiated claims (250 companies)
- Products, therapies treat or prevent COVID-19
- Saunas, IV vitamins, pulsed electromagnetic field devices, licorice
- Radish paste, vitamin therapy, drinkable bleach, disinfectants
- Shields to boost the immune system from electromagnetic fields
- No approved COVID-19 cure or therapy
- Buyer Beware, Question: Is It too Good to be True?

[www.ftc.gov/news-events/blogs/business-blog/2020/06/new-ftc-covid-19-warning-letters-take-total-250](https://www.ftc.gov/news-events/blogs/business-blog/2020/06/new-ftc-covid-19-warning-letters-take-total-250)

# Medicare Fraud Scheme Evolves

- **2019 Genetic Testing / Cancer Screening Scam**
  - Labs obtain Medicare #s at health fairs
  - Simple cheek swab; Test on beneficiary record
  - Medicare fraudulently billed \$\$\$
- **2020 COVID Testing Fraud**
  - Operator of lab networks in Florida
  - Offered \$75 gift cards to patients for their DNA and Medicare information
  - Colluded with a physician who authorized tests for hundreds of patients across the country that he never saw, examined or treated
  - Tests were bundled with expensive respiratory pathogen panels; medical equipment

# COVID Telemedicine DME Phone Scam

## 50% increase in DME billers

- Typical scam:
  - Senior called by a stranger; eligible for free back brace
  - Needs to verify eligibility (Medicare #, SSN)
  - ‘Doctor’ authorizes order for equipment
  - Senior gets braces she did not need or want
  - Medicare billed and vendor receives \$\$\$
  - DME on Medicare record

## Wisconsin Doctor \$26M Fraud

- 2017 to 2020
- Worked as a physician for telemedicine companies; signed orders for medical braces for ankles, knees, backs, shoulders, wrists and hands for Medicare beneficiaries
- Falsely said he had spoken with the Medicare beneficiary, that he had established a valid prescriber-patient relationship with the beneficiary, and that he conducted various examinations and diagnostic tests of the beneficiary

# Fraudulent Hospice Enrollment Scam

- Scam: non-terminal seniors enrolled in hospice
  - **Brie** needs heart surgery but denied
  - **Betty** can't see her primary doctor
  - **John** needs his medications but pharmacy denied
- All non-terminal; all enrolled in hospice
- All think they spoke to someone from 'Medicare'
- All disclosed Medicare # and other personal info

# Healthcare Plan Scam Warning

- Scam:
  - “Looking for affordable health insurance with benefits from a company you know?”
- Telemarketers sell plans to people who’ve lost jobs to the pandemic
- Promise consumers full-benefit coverage for bargain-basement prices
- Admitted to knowingly call consumers who were listed on the Do Not Call list
- Admitted to making millions of calls using spoofed numbers each day
- We recommend:
  - Free, unbiased information on Medicare and Medicare Advantage Plans
  - 800-434-0222



# SHIP Resources

- SHIP TA Center: [shiptacenter.org](http://shiptacenter.org)
- NCOA: [ncoa.org/COVID-19](http://ncoa.org/COVID-19)
- CMS: [cms.gov](http://cms.gov)
- California Health Advocates:  
[cahealthadvocates.org](http://cahealthadvocates.org)

# Discussion/Q&A