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Coronavirus (COVID-19) Update: Webinar #4

Staying the Business Course Through COVID-19

April 17, 2020

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Disclaimer: COVID-19

This presentation is intended as source of information on laws and regulations affecting medical practices, and on programs to help businesses manage cash flow and liquidity during the COVID-19 pandemic. Neither Conventus or Capehart Scatchard can guarantee the accuracy of information provided since statutes, laws, regulations and guidance, as well as their interpretation, can rapidly change each day. Therefore, ***the presentation and any materials provided are not intended to be financial advice and is not a substitute for financial or legal advice from a professional who is aware of the facts and circumstances of your individual situation.***

Telehealth/Telemedicine Disclaimer:
Information presented herein represents current CMS and CPT guidelines at the time of this presentation. Payer specific nuances apply to many telehealth services.

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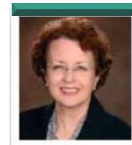
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Objectives

Provide updates on:

- Telemedicine/Telehealth billing and coding requirements
- Funding and Human Resources Update
 - Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, Provider Relief Fund
 - NJ Family Leave Act
- Immunity from Civil Liability
 - Executive Order 112, S2333, CARES Act, Public Readiness and Emergency Preparedness (PREP) Act

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Telemedicine/Telehealth Billing & Coding



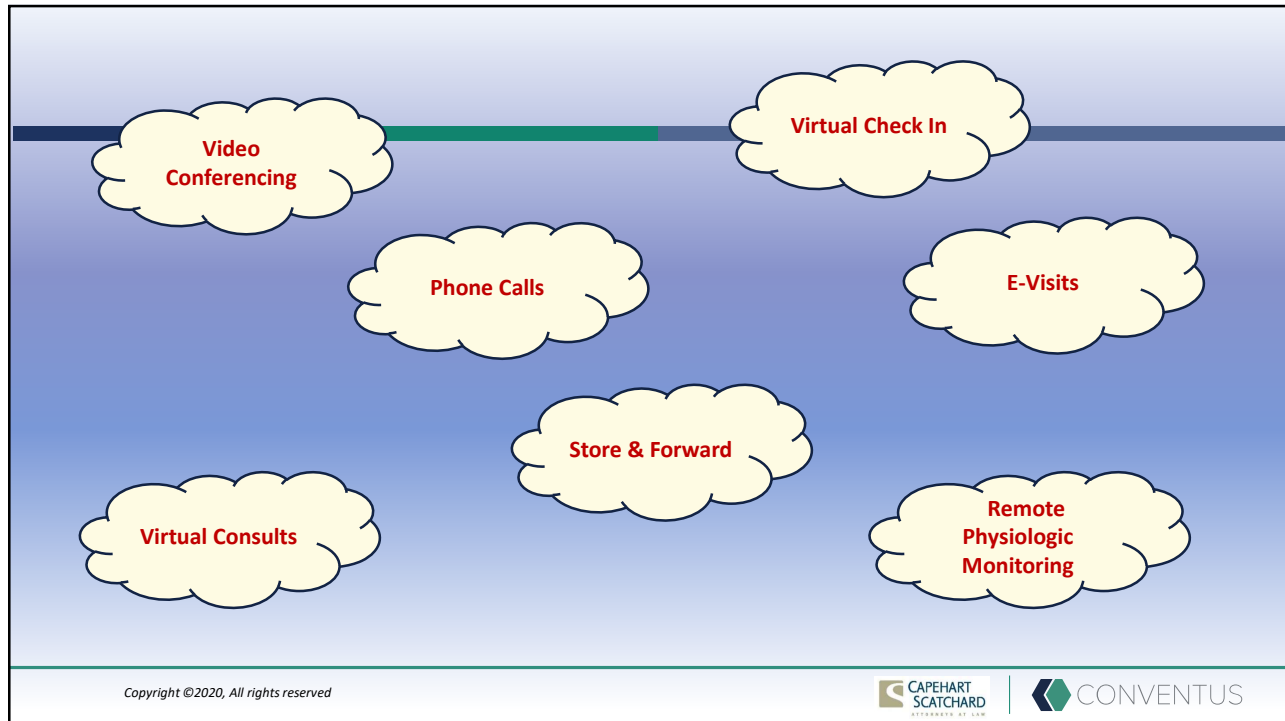
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Live Video/Audio Conferencing

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CMS Guidelines – Coding & Documentation

- Provider must utilize interactive audio and video, real time communication (some payers allow audio only)
 - Per CMS, document:
 - ▶ Patient location
 - ▶ Provider location
 - ▶ Names of all persons participating in the telehealth service and their role in the encounter
 - Otherwise, document the same as any face-to-face encounter.
- E/M services:
 - Throughout the duration of the public health emergency (PHE), the provider may use either medical decision making or time. No need to meet other requirements (HPI, ROS, exam, etc.)
- Place of service should be equal to what it would have been in the absence of a PHE, e.g. POS 11 for office
- Bill the most appropriate CPT Code along with modifier 95.

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CPT Code List – Telehealth Services

LIST OF MEDICARE TELEHEALTH SERVICES					
Code	Short Descriptor	Code	Short Descriptor	Code	Short Descriptor
90785	Psycho complex interactive	96130	Psychol tat eval phys/qlp 1st	99202	Office outpatient visit new
90791	Psych diagnostic evaluation	96131	Psychol tat eval phys/qlp ea	99203	Office outpatient visit new
90792	Psych diag eval w/med svcs	96132	Psychol tat eval phys/qlp 1st	99204	Office outpatient visit new
90832	Psycho psk fam 30 minutes	96133	Psycho psk fam w/med svcs	99205	Office outpatient visit new
90833	Psycho psk fam w/med 30 min	96136	Psychol psk fam w/med 30 min	99211	Office outpatient visit est
90834	Psycho psk fam 45 minutes	96137	Psychol psk fam w/med 45 min	99212	Office outpatient visit est
90836	Psycho psk fam w/med 45 min	96138	Psychol psk fam w/med 60 min	99213	Office outpatient visit est
90837	Psycho psk fam 60 minutes	96139	Psychol psk fam w/med 60 min	99214	Office outpatient visit est
90838	Psycho psk fam w/med 60 min	96156	HiH bhw assest assessment	99215	Office outpatient visit est
90839	Psycho crisis initial 60 min	96168	HiH bhw rvyng indiv 1st 30	99217	Observation care discharge
90840	Psycho crisis ea addl 30 min	96159	HiH bhw rvyng indiv ea addl	99218	Initial observation care
90845	Psychosynthesis	96164	HiH bhw rvyng grp 1st 30	99219	Initial observation care
90846	Family psycho w/patient	96165	HiH bhw rvyng grp ea addl	99220	Initial observation care
90847	Family psycho w/patient	96167	HiH bhw rvyng fam 1st 30	99221	Initial hospital care
90853	Group psychotherapy	96168	HiH bhw rvyng fam ea addl	99222	Initial hospital care
90901	Eard serv 4 visits p mo <2yr	96160	Pr-focused hlt risk assest	99223	Initial hospital care
90902	Eard serv 2-3 visits p mo <2yr	96161	Caregiver health risk assest	99224	Subsequent observation care
90903	Eard serv 1 visit p mo <2yr	97110	Therapeutic exercises	99225	Subsequent observation care
90904	Eard serv 4 visits p mo 2-11	97112	Neuromuscular reeducation	99226	Subsequent observation care
90905	Eard serv 2-3 visits p mo 2-11	97116	Gait training therapy	99231	Subsequent hospital care
90907	Eard serv 4 visits p mo 12-19	97161	PT Eval low complex 20 min	99232	Subsequent hospital care
90908	Eard serv 2-3 visits p mo 12-19	97162	PT Eval med complex 30 min	99233	Subsequent hospital care
90909	Eard serv 1 visit p mo 12-19	97163	PT Eval high complex 45 min	99234	Observ hosp same date
90960	Eard serv 4 visits p mo 20+	97164	PT re-eval ext plan care	99235	Observ hosp same date
90961	Eard serv 2-3 visits p mo 20+	97165	OT eval low complex 30 min	99236	Observ hosp same date
90962	Eard serv 1 visit p mo 20+	97166	OT eval med complex 45 min	99238	Hospital discharge day
90963	Eard home pt serv p mo <2yrs	97167	OT eval high complex 60 min	99258	Hospital discharge day
90964	Eard home pt serv p mo 2-11	97168	OT re-eval ext plan care	99281	Emergency dept visit
90965	Eard home pt serv p mo 12-19	97353	Self-care mgmt training	99282	Emergency dept visit
90966	Eard home pt serv p mo 20+	97750	Physical Performance Test	99283	Emergency dept visit
90967	Eard home pt serv p day <2	97755	Assistive Technology Assess	99284	Emergency dept visit
90968	Eard home pt serv p day 2-11	97760	Orthotic mgmt/trng 1st m	99285	Emergency dept visit
90969	Eard home pt serv p day 12-19	97761	Prosthetic trng 1st m	99291	Critical care first hour
90970	Eard home pt serv p day 20+	97802	Medical nutrition indiv in	99292	Critical care addl 30 min
92307	Speech/hearing therapy	97803	Med nutrition indiv subseq	99304	Nursing facility care init
92311	Evaluation of speech fluency	97804	Medical nutrition group	99305	Nursing facility care init
92322	Evaluation speech production	G0108	Diab manage tm per indiv	99306	Nursing facility care init
92323	Speech sound lang comprehension	G0109	Diab manage tm indv group	99307	Nursing facility care subseq
92324	Behavioral quality analy voc	99270	Med subs tx for change ds	99308	Nursing fac care subseq
		99202	Office outpatient visit new	99310	Nursing fac discharge day
		99203	Office outpatient visit new	99313	Nursing fac discharge day
		99204	Office outpatient visit new	99327	Domestic/home visit new pa
		99205	Office outpatient visit new	99328	Domestic/home visit new pa
		99211	Office outpatient visit est	99334	Domestic/home visit est pa
		99212	Office outpatient visit est	99335	Domestic/home visit est pa
		99213	Office outpatient visit est	99336	Domestic/home visit est pa
		99214	Office outpatient visit est	99337	Domestic/home visit est pa
		99215	Office outpatient visit est	99341	Home visit new patient
		99217	Observation care discharge	99342	Home visit new patient
		99218	Initial observation care	99343	Home visit new patient
		99219	Initial observation care	99344	Home visit new patient
		99220	Initial observation care	99345	Home visit new patient
		99221	Initial hospital care	99347	Home visit est patient
		99222	Initial hospital care	99348	Home visit est patient
		99223	Initial hospital care	99349	Home visit est patient
		99224	Subsequent observation care	99350	Home visit est patient
		99225	Subsequent observation care	99354	Prolonged service office
		99226	Subsequent observation care	99355	Prolonged service office
		99231	Subsequent hospital care	99356	Prolonged service inpatient
		99232	Subsequent hospital care	99357	Prolonged service inpatient
		99233	Subsequent hospital care	99406	Behav chng smoking 3-10 min
		99234	Observ hosp same date	99407	Behav chng smoking >10 min
		99235	Observ hosp same date	99468	Neonate crit care initial
		99236	Observ hosp same date	99469	Neonate crit care subseq
		99238	Hospital discharge day	99471	Ped critical care initial
		99258	Hospital discharge day	99472	Ped critical care subseq
		99281	Emergency dept visit	99473	Self-mgmt hgt pt educ/trng
		99282	Emergency dept visit	99475	Ped crit care age 2-5 subseq
		99283	Emergency dept visit	99476	Ped crit care age 2-5 subseq
		99284	Emergency dept visit	99477	Init day hosp neonate care
		99285	Emergency dept visit	99478	Is low inf <1500 gms subseq
		99291	Critical care first hour	99479	Is low inf 1500-2500 gms subseq
		99292	Critical care addl 30 min	99480	Is int plw 2501-3500 gms subseq
		99304	Nursing facility care init	99483	Assmt & care plan over mgt
		99305	Nursing facility care init	99495	Trans care mgmt 14 day disch
		99306	Nursing facility care init	99496	Trans care mgmt 7 day disch
		99307	Nursing facility care subseq	99497	Advised care plan 30 min
		99308	Nursing fac care subseq	99498	Advised care plan 30 min
		99310	Nursing fac discharge day	99499	Advised care plan 30 min
		99313	Nursing fac discharge day	99500	Advised care plan 30 min
		99327	Domestic/home visit new pa	99501	Advised care plan 30 min
		99328	Domestic/home visit new pa	99502	Advised care plan 30 min
		99334	Domestic/home visit est pa	99503	Advised care plan 30 min
		99335	Domestic/home visit est pa	99504	Advised care plan 30 min
		99336	Domestic/home visit est pa	99505	Advised care plan 30 min
		99337	Domestic/home visit est pa	99506	Advised care plan 30 min
		99341	Home visit new patient	99507	Advised care plan 30 min
		99342	Home visit new patient	99508	Advised care plan 30 min
		99343	Home visit new patient	99509	Advised care plan 30 min
		99344	Home visit new patient	99510	Advised care plan 30 min
		99345	Home visit new patient	99511	Advised care plan 30 min
		99347	Home visit est patient	99512	Advised care plan 30 min
		99348	Home visit est patient	99513	Advised care plan 30 min
		99349	Home visit est patient	99514	Advised care plan 30 min
		99350	Home visit est patient	99515	Advised care plan 30 min
		99354	Prolonged service office	99516	Advised care plan 30 min
		99355	Prolonged service office	99517	Advised care plan 30 min
		99356	Prolonged service inpatient	99518	Advised care plan 30 min
		99357	Prolonged service inpatient	99519	Advised care plan 30 min
		99406	Behav chng smoking 3-10 min	99520	Advised care plan 30 min
		99407	Behav chng smoking >10 min	99521	Advised care plan 30 min
		99468	Neonate crit care initial	99522	Advised care plan 30 min
		99469	Neonate crit care subseq	99523	Advised care plan 30 min
		99471	Ped critical care initial	99524	Advised care plan 30 min
		99472	Ped critical care subseq	99525	Advised care plan 30 min
		99473	Self-mgmt hgt pt educ/trng	99526	Advised care plan 30 min
		99475	Ped crit care age 2-5 subseq	99527	Advised care plan 30 min
		99476	Ped crit care age 2-5 subseq	99528	Advised care plan 30 min
		99477	Init day hosp neonate care	99529	Advised care plan 30 min
		99478	Is low inf <1500 gms subseq	99530	Advised care plan 30 min
		99479	Is low inf 1500-2500 gms subseq	99531	Advised care plan 30 min
		99480	Is int plw 2501-3500 gms subseq	99532	Advised care plan 30 min
		99483	Assmt & care plan over mgt	99533	Advised care plan 30 min
		99495	Trans care mgmt 14 day disch	99534	Advised care plan 30 min
		99496	Trans care mgmt 7 day disch	99535	Advised care plan 30 min
		99497	Advised care plan 30 min	99536	Advised care plan 30 min
		99498	Advised care plan 30 min	99537	Advised care plan 30 min
		99499	Advised care plan 30 min	99538	Advised care plan 30 min
		99500	Advised care plan 30 min	99539	Advised care plan 30 min
		99501	Advised care plan 30 min	99540	Advised care plan 30 min
		99502	Advised care plan 30 min	99541	Advised care plan 30 min
		99503	Advised care plan 30 min	99542	Advised care plan 30 min
		99504	Advised care plan 30 min	99543	Advised care plan 30 min
		99505	Advised care plan 30 min	99544	Advised care plan 30 min
		99506	Advised care plan 30 min	99545	Advised care plan 30 min
		99507	Advised care plan 30 min	99546	Advised care plan 30 min
		99508	Advised care plan 30 min	99547	Advised care plan 30 min
		99509	Advised care plan 30 min	99548	Advised care plan 30 min
		99510	Advised care plan 30 min	99549	Advised care plan 30 min
		99511	Advised care plan 30 min	99550	Advised care plan 30 min
		99512	Advised care plan 30 min	99551	Advised care plan 30 min
		99513	Advised care plan 30 min	99552	Advised care plan 30 min
		99514	Advised care plan 30 min	99553	Advised care plan 30 min
		99515	Advised care plan 30 min	99554	Advised care plan 30 min
		99516	Advised care plan 30 min	99555	Advised care plan 30 min
		99517	Advised care plan 30 min	99556	Advised care plan 30 min
		99518	Advised care plan 30 min	99557	Advised care plan 30 min
		99519	Advised care plan 30 min	99558	Advised care plan 30 min
		99520	Advised care plan 30 min	99559	Advised care plan 30 min
		99521	Advised care plan 30 min	99560	Advised care plan 30 min
		99522	Advised care plan 30 min	99561	Advised care plan 30 min
		99523	Advised care plan 30 min	99562	Advised care plan 30 min
		99524	Advised care plan 30 min	99563	Advised care plan 30 min
		99525	Advised care plan 30 min	99564	Advised care plan 30 min
		99526	Advised care plan 30 min	99565	Advised care plan 30 min
		99527	Advised care plan 30 min	99566	Advised care plan 30 min
		99528	Advised care plan 30 min	99567	Advised care plan 30 min
		99529	Advised care plan 30 min	99568	Advised care plan 30 min
		99530	Advised care plan 30 min	99569	Advised care plan 30 min
		99531	Advised care plan 30 min	99570	Advised care plan 30 min
		99532	Advised care plan 30 min	99571	Advised care plan 30 min
		99533	Advised care plan 30 min	99572	Advised care plan 30 min
		99534	Advised care plan 30 min	99573	Advised care plan 30 min
		99535	Advised care plan 30 min	99574	Advised care plan 30 min
		99536	Advised care plan 30 min	99575	Advised care plan 30 min
		99537	Advised care plan 30 min	99576	Advised care plan 30 min
		99538	Advised care plan 30 min	99577	Advised care plan 30 min
		99539	Advised care plan 30 min	99578	Advised care plan 30 min
		99540	Advised care plan 30 min	99579	Advised care plan 30 min
		99541	Advised care plan 30 min	99580	Advised care plan 30 min
		99542	Advised care plan 30 min	99581	Advised care plan 30 min
		99543	Advised care plan 30 min	99582	Advised care plan 30 min
		99544	Advised care plan 30 min	99583	Advised care plan 30 min
		99545	Advised care plan 30 min	99584	Advised care plan 30 min
		99546	Advised care plan 30 min	99585	Advised care plan 30 min
		99547	Advised care plan 30 min	99586	Advised care plan 30 min
		99548	Advised care plan 30 min	99587	Advised care plan 30 min
		99549	Advised care plan 30 min	99588	Advised care plan 30 min
		99550	Advised care plan 30 min	99589	Advised care plan 30 min
		99551	Advised care plan 30 min	99590	Advised care plan 30 min
		99552	Advised care plan 30 min	99591	Advised care plan 30 min
		99553	Advised care plan 30 min	99592	Advised care plan 30 min
		99554	Advised care plan 30 min	99593	Advised care plan 30 min
		99555	Advised care plan 30 min	99594	Advised care plan 30 min
		99556	Advised care plan 30 min	99595	Advised care plan 30 min
		99557	Advised care plan 30 min	99596	Advised care plan 30 min
		99558	Advised care plan 30 min	99597	Advised care plan 30 min
		99559	Advised care plan 30 min	99598	Advised care plan 30 min
		99560	Advised care plan 30 min	99599	Advised care plan 30 min
		99561	Advised care plan 30 min	99600	Advised care plan 30 min
		99562	Advised care plan 30 min	99601	Advised care plan 30 min
		99563	Advised care plan 30 min	99602	Advised care plan 30 min
		99564	Advised care plan 30 min	99603	Advised care plan 30 min
		99565	Advised care plan 30 min	99604	Advised care plan 30 min
		99566	Advised care plan 30 min	99605	Advised care plan 30 min
		99567	Advised care plan 30 min	99606	Advised care plan 30 min
		99568	Advised care plan 30 min	99607	Advised care plan 30 min
		99569	Advised care plan 30 min	99608	Advised care plan 30 min
		99570	Advised care plan 30 min	99609	Advised care plan 30 min
		99571	Advised care plan 30 min	99610	Advised care plan 30 min
		99572	Advised care plan 30 min	99611	Advised care plan 30 min
		99573	Advised care plan 30 min	99612	Advised care plan 30 min
		99574	Advised care plan 30 min	99613	Advised care plan 30 min
		99575	Advised care plan 30 min	99614	Advised care plan 30 min
		99576	Advised care plan 30 min	99615	Advised care plan 30 min
		99577	Advised care plan 30 min	99616	Advised care plan 30 min
		99578	Advised care plan 30 min	99617	Advised care plan 30 min
		99579	Advised care plan 30 min	99618	Advised care plan 30 min
		99580	Advised care plan 30 min	99619	Advised care plan 30 min
		99581	Advised care plan 30 min	99620	Advised care plan 30 min
		99582	Advised care plan 30 min	99621	Advised care plan 30 min
		99583	Advised care plan 30 min	99622	Advised care plan 30 min
		99584	Advised care plan 30 min	99623	Advised care plan 30 min
		99585	Advised care plan 30 min	99624	Advised care plan 30 min
		99586	Advised care plan 30 min	99625	Advised care plan 30 min
		99587	Advised care plan 30 min	99	

Phone Calls, E-Visits & Virtual Check-In

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Phone Calls

- Medicare announced 3/31/2020 that it will pay for phone calls on a temporary basis throughout the duration of the PHE.
- **Cannot** bill these codes if any of the following conditions apply:
 - Subject matter is related to a previous E/M encounter within past 7 days.
 - Subject matter is related to a preplanned E/M encounter to occur within next 24 hours.
 - If the call results in the scheduling of an E/M encounter within next 24 hours.

Time	Physician (MD)	Non-Provider Practitioner (NPP) (NP, PA, CNM, PT, OT, Speech, Clinical Psychologist)
5-10 minutes	99441	98966
11-20 minutes	99442	98967
21 or more minutes	99443	98968

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Virtual Check-In/Store & Forward

- Intent of **Virtual Check In** is to avoid unnecessary trips to the office.
- **Store & Forward** - Provider review of previously recorded images and video.
- Patient must verbally consent .
- Only for providers who can bill E/M codes.
- “7/24” concept applies.
 - **G2012:** Brief communication technology-based service, e.g. virtual check-in, by a physician or other qualified health care professional who can report evaluation and management services, provided to an established patient, not originating from a related e/m service provided within the previous 7 days nor leading to an e/m service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion
 - **G2010:** Remote evaluation of recorded video and/or images submitted by an established patient (e.g., store and forward), including interpretation with follow-up with the patient within 24 business hours, not originating from a related e/m service provided within the previous 7 days nor leading to an e/m service or procedure within the next 24 hours or soonest available appointment

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E-Visits

- E-visits refer to communications with providers via online patient portals, or via secured email.
- Medicare has waived the previous restriction indicating this service is available only to established patients.
- The **patient must generate the initial** inquiry; however, the practice can reach out to patients to make them aware of service availability.
- If within seven days of the initiation of an online digital E/M service, a separately reported E/M visit occurs, then the work devoted to the online digital E/M service is incorporated into the separately reported E/M visit.

Time spent over 7-day period	MD or NPP	Other (PT, OT, Speech, Clinical Psychologist)
5-10 minutes	99421	G2061
11-20 minutes	99422	G2062
21 or more minutes	99423	G2063

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Virtual Consults & Remote Physiologic Monitoring

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Virtual Consults

Inpatient or Outpatient Without Patient Face to Face Encounter

- 99446: 5-10 minutes of medical consultative discussion and review, with verbal and written report
- 99447: 11-20 minutes of medical consultative discussion and review, with verbal and written report
- 99448: 21-30 minutes of medical consultative discussion and review, with verbal and written report
- 99449: 31 or more minutes of medical consultative discussion and review, with verbal and written report
- 99451: 5 minutes or more of medical consultative time with written report ONLY

Inpatient or ED Only With Patient Face to Face Encounter

- G0425: initial, 30 min via telehealth
- G0426: initial, 50 min via telehealth
- G0427: initial, 70 min via telehealth
- G0406: follow up, 15 min via telehealth
- G0407: follow up, 25 min via telehealth
- G0408: follow up, 35 min via telehealth

PCP / Other Referring Source

- 99452 - Interprofessional telephone/Internet/electronic health record referral service(s) provided by a treating/requesting physician or other qualified health care professional, 16-30 minutes

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Remote Physiologic Monitoring

- **99453:** Remote monitoring of physiologic parameter(s) (eg, weight, blood pressure, pulse oximetry, respiratory flow rate), initial; set-up and patient education on use of equipment.
- **99454:** Remote monitoring of physiologic parameter(s) (eg, weight, blood pressure, pulse oximetry, respiratory flow rate), initial; device(s) supply with daily recording(s) or programmed alert(s) transmission, each 30 days.
- **99091:** Collection and interpretation of physiologic data (eg, ECG, blood pressure, glucose monitoring) digitally stored and/or transmitted by the patient and/or caregiver to the physician or other qualified health care professional, qualified by education, training, licensure/regulation (when applicable) requiring a minimum of 30 minutes of time, each 30 days.
- **99473:** Self-measured blood pressure using a device validated for clinical accuracy; patient education/training and device calibration.

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Remote Physiologic Monitoring (cont'd)

- **99474:** Self-measured blood pressure using a device validated for clinical accuracy; separate self-measurements of two readings one minute apart, twice daily over a 30-day period (minimum of 12 readings), collection of data reported by the patient and/or caregiver to the physician or other qualified health care professional, with report of average systolic and diastolic pressures and subsequent communication of a treatment plan to the patient.
- **99457:** Remote physiologic monitoring treatment management services, clinical staff/physician/other qualified health care professional time in a calendar month requiring interactive communication with the patient/caregiver during the month; first 20 minutes.
- **99458:** Remote physiologic monitoring treatment management services, clinical staff/physician/other qualified health care professional time in a calendar month requiring interactive communication with the patient/caregiver during the month; each additional 20 minutes (List separately in addition to code for primary procedure).

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Funding and Human Resources Updates

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CARES Act Provider Relief Fund

- Advanced Medicare Payment under CARES Act.
- Payments received by Medicare billers beginning on April 10, 2020.
- Payment based on total Medicare Fee-For-Service (FFS) billing for 2019 as a percentage of total FFS Medicare billing for 2019 x \$30 billion allocated to program.
- Does not need to be repaid **BUT NOT FREE MONEY.**
- Payments are to be used for the care of COVID-19 patients.

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Conditions for Use of Payments

- The recipient must agree not to “balance bill” COVID-19 patients for medical services provided during the pandemic.
- May accept in-network payments.
- Medical care is not limited to treatments specific to COVID 19.
- The funds may be used only to reimburse the recipient for lost revenues and health care expenses related to COVID-19.
- Must sign attestation agreeing to terms and conditions on Department of Health & Human Services (DHHS) website within 30 days of receipt of funds.

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Terms and Conditions for Advanced Medicare Payment

- HHS Website link to terms and conditions for use of money:
 - <https://www.hhs.gov/sites/default/files/relief-fund-payment-terms-and-conditions-04132020.pdf>
- Advanced payment funds cannot be used to reimburse for expenses which have been reimbursed from other sources.
- Since advanced payment funds are to be used only for lost revenues and costs of provision of health services, the funds cannot be used for capital improvements, new equipment, etc.

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Terms and Conditions (cont'd)

- Practices shall submit reports to the DHHS Secretary:
 - To ensure compliance with conditions that are imposed on the Payment as specified by the Secretary in future program instructions.
- If the practice has received in total more than \$150,000 under the CARES Act, the Families First Act or any other act intended primarily for coronavirus:
 - 10 days after the end of every calendar quarter submit a report indicating the use of funds expended under each program.
 - Report is to be submitted to HHS Secretary and the Pandemic Response Committee.
- Practices must retain all records and documents substantiating expenditures and provide documentation to HHS upon request

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Updates to NJ Family Leave Act

- S 2374 was signed by Governor Murphy on April 14, 2020.
- Expands NJ Family Leave program administered through the Department of Labor (DOL).
- Protects jobs of employees for 12 weeks out of a 24-month period when:
 - Employee needs to care for a child out of school during a PHE.
 - Employee is needed to care for a family member who may have been exposed to COVID-19.
 - Health care provider recommends that employee is needed to care for a family member who has been recommended to self-quarantine.

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Certification Required for Updated NJ Family Leave Act

- The employer may request that the employee provide certification of the need for Family Leave.
- A certificate from the child's school is acceptable if it states that the school was closed due to a public health emergency and the date of closure.
- Certification from a health care provider that a family member is required to quarantine for reasons related to COVID-19 is acceptable if it contains the date of condition, the expected duration and any other facts about the medical condition of family member known to provider.
- The quarantine requirement of a public health official or public health authority is also acceptable if it contains the date of issuance and probable duration.

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NJ Family Leave Update (cont'd)

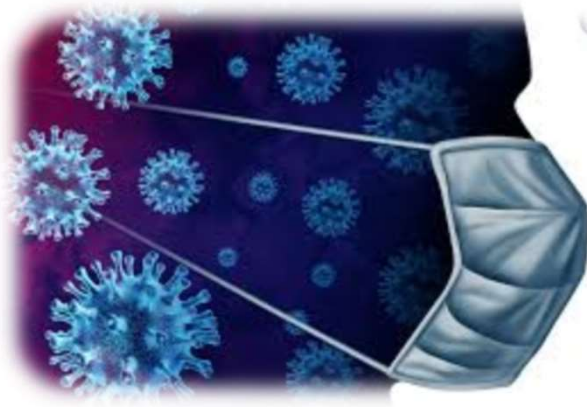
- The leave may be intermittent if:
 - Employee provides as much notice as practicable to the employer; and
 - Employee makes a reasonable effort not to interrupt the operations of the employer by providing with a schedule of leave, if possible.

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Immunity From Civil Liability

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EO 112 – Immunity from Liability

For Duration of State of Emergency or PHE, whichever is longer

- Retired/Lapsed NJ Healthcare Professional Licenses
 - Applicable within last 5 years
 - Temporary reactivation
 - ▶ Waiver for fees, affidavits of employment, proof of CE credits
 - ▶ **Waiver for liability insurance for physicians and physician assistants**
 - ▶ Expedited application to Division of Consumer Affairs (DCA)
- Foreign Physicians
 - Licensed in good standing in another country
 - Waiver on exams and fees, premed education requirements
 - Waiver on requirements for “medical malpractice insurance”
 - Expedited application to DCA

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EO 112 (cont'd)

- Advance Practice Nurses (APNs)
 - Suspension and waivers on requirements for joint protocols, review of charts, and written approval from collaborating physician to dispense narcotics for detoxification and substance abuse
- Physician Assistants (PAs)
 - Suspension and waivers on requirements for physician supervision, delegation agreements, obtaining authorization to prescribe controlled dangerous substances (CDS), limits on assistance in the operating room (OR)
- Access to NJ Prescription Monitoring Program (NJPMP)
 - CDS registration is not required
 - Drug Enforcement Administration (DEA) registration is required

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EO 112 (cont'd)

- Immunity from Liability – Temporary Licensees
 - Immunity from civil liability for any damages from acts or omissions in good faith and in the course of providing services in support of NJ's COVID-19 response
 - Can be outside scope of practice
 - Immunity does not extend to crimes, actual fraud, actual malice, gross negligence, or willful conduct

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EO 112 (cont'd)

- Immunity from Liability – Current Licensees
 - Includes but not limited to APNs, PAs
 - Can be outside scope of practice
 - Immunity from civil liability for any damages from acts or omissions in good faith and in the course of providing services in support of NJ's COVID-19 response
 - ▶ **Exclusions removed!**
 - Immunity does not extend to crimes, actual fraud, actual malice, gross negligence, or willful conduct

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EO 112 (cont'd)

- Hospitals
 - Immune from civil liability for any damages from acts or omissions in good faith and in the course of providing services in support of NJ's COVID-19 response
 - ▶ **Exclusions removed!**
 - Immunity does not extend to crimes, actual fraud, actual malice, gross negligence, or willful conduct
- Retroactive Immunity
 - Applies to all acts or omissions occurring during the State of Emergency or PHE, including prior to issuance of the EO

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S2333 – NJ Immunity Legislation

For the Duration of the State of Emergency or PHE, Whichever is Longer

- Signed into law on April 13, 2020
 - Retroactive to March 9, 2020
 - Further defines EO 112 immunity for healthcare services “in support of state’s COVID-19 response”
- Applies to healthcare professionals
 - Physician, PA, APN, RN, LPN or other healthcare professional whose practice is regulated in NJ pursuant to Title 45
 - NJ certified EMT, mobile intensive care paramedic, and radiologic technologist regulated pursuant to Title 26

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S2333 (cont’d)

- Immunity Intent
 - Ensure no impediments to providing medical treatment related to COVID-19 and medical personnel supporting the COVID-19 response
- What It Is **NOT** Intended To Cover
 - *No immunity for “medical care rendered in the ordinary course of medical practice”*
 - Examples: Orthopedic procedures, OB/GYN services and necessary cardiological procedures
- What It **IS** Intended To Cover
 - Immunity includes but is not limited to telemedicine, telehealth, and
 - Diagnosing or treating patients outside normal scope of license or practice in support of efforts to *treat* COVID-19 patients and to *prevent* the spread of COVID-19

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S2333 (cont'd)

- Other Immunities
 - Immunity from civil or criminal liability for damages, injury or death related to allocation of mechanical ventilators or other scarce medical resources if the facility adopts and adheres to a “scarce critical resource allocation policy”.
 - ▶ **NJ Department of Health – “Allocation of Critical Care Resources During a Public Health Emergency,”** April 11, 2020 (Adapted from the University of Pittsburg) <https://nj.gov/health/legal/covid19/AG%20Directive%202020-03%20Allocation%20Policy%20FINAL.pdf>
 - ▶ **Executive Directive 20-006** (Commissioner of Health) – No civil liability for adopting and implementing the policy. <https://www.state.nj.us/health/legal/covid19/FinalExecDirective20-006.pdf>
 - ▶ **Law Enforcement Directive 2020-03** (Attorney General) – No criminal prosecution for adopting and implementing the policy https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2020-3_Allocation-Policy.pdf

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S2333 (cont'd)

- Implications of Legislation
 - Challenges in court?
 - ▶ Example: allegations that “medical care rendered in the ordinary course of medical practice”
 - Still need to maintain standards of care and due diligence
- Other Provisions
 - EMTs - Issuance of provisional certification to EMT whose certification expired through expedited application
 - ▶ Certification valid for 6 months
 - Paramedics - Issuance of provisional certification to paramedic whose certification expired within last 5 years, in inactive status, or needs granting of temporary reciprocity if not certified in NJ but certified elsewhere through expedited application
 - ▶ Valid for 6 months

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CARES Act – Immunity for Volunteers

- Limitations on Liability for Volunteers During PHE
 - Not liable under federal or state law for any harm from act or omission in the diagnosis, prevention or treatment of patients with suspected or confirmed COVID-19 if acting in good faith
 - Must not receive compensation or anything of value in lieu of compensation
 - ▶ Excludes reimbursement for travel, room/board, if traveling > 75 miles from principal place or residence
 - Exceptions: harm caused by willful or criminal conduct, gross negligence, reckless misconduct, flagrant indifference to patient safety or rights, or under the influence of alcohol or intoxicating drugs

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PREP Act – Immunity for Products and Devices

- Declared February 4, 2020
 - COVID-19 caused by SARS-CoV-2 or a virus mutating therefrom
- Authorizes the Secretary of the U.S. Department of Health & Human Services (DHHS) to issue a PREP Act declaration in response to a public health emergency.
- The declaration provides **immunity from tort liability claims (except willful misconduct)** to individuals or organizations involved in the manufacture, distribution, or **dispensing of medical countermeasures**.

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PREP Act (cont'd)

- Covered Countermeasures
 - Vaccines, antidotes, medications, medical devices or other FDA regulated assets used to respond to pandemics, epidemics, or any biological, chemical, radiological, or nuclear threat.
 - Used to treat, diagnose, cure, prevent, or mitigate COVID-19, or the transmission of SARS-CoV-2 or a virus mutating therefrom.
- Tort Claims
 - Death, physical/mental/emotional injury; property damage or loss; development, distribution, administration, dispensing.
- Implications
 - May apply to COVID-19 testing, medications, ventilators, vaccines, Personal Protective Equipment (PPE).
 - Must still provide adequate informed consent, including no misrepresentations.

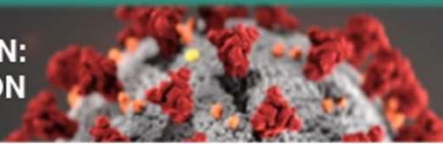
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CONVENTUS CONNECTION: COVID-19 SPECIAL EDITION



- Immunity from Liability and Expanded Scope of Practice
<https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/!!Law041420-Immunity.pdf?ext=.pdf>
- Accelerated and Advanced Payment Program
https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/!!Medicare_AccelAdvProgram.pdf?ext=.pdf
- Quality Payment Program – New Flexibilities in Response to COVID-19
[https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/MIPS_COVID-19Response_\(1\).pdf?ext=.pdf](https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/MIPS_COVID-19Response_(1).pdf?ext=.pdf)
- CMS Issues New Wave of Infection Control Guidance During COVID-19
<https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/!!NewCMS-CDCInfectrGuidelines.pdf?ext=.pdf>
- CMS Issues Stark Law Blanket Waivers During COVID-19
https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/!!Stark_Law_Waivers.pdf?ext=.pdf
- Protect Your Practice from COVID-19 Cybercriminals
https://conventusnj.com/ConventusPortal/media/Media/Newsletter%20PDFs/COVID-19/!!Stark_Law_Waivers.pdf?ext=.pdf

Conventus COVID-19 Resource Center

https://conventusnj.com/covid_19_resources.aspx

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About Us



With over 25 years of experience in healthcare regulation and compliance, Healthcare Compliance Network (HCN) is a leading provider of education, training, auditing and compliance products and services. HCN facilitates a streamlined approach to achieving regulatory compliance for healthcare organizations of all sizes. With an emphasis on physician practices, HCN's Hi-Tech Hi-Touch approach can be tailored to provide both on site services as well as web-based applications.



A full-service regional law firm with offices in NJ, NY and Philadelphia. The Health Care Group represents clients in: health care business transactions; healthcare mergers and acquisitions; billing and coding audits and investigations; regulatory compliance, including HIPAA, Medical practice employment and human resource questions; as well as licensing board investigations and litigation.



New Jersey's premier professional liability insurer formed by and governed through an alliance of physicians serving the best interests of physician practices. Conventus members and their staff enjoy exclusive access to insurance products and highly personalized services, gaining the practical knowledge and expert resources they need to improve practice performance, better serve their patients, and thrive in today's rapidly changing healthcare environment.

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