

2020 Washington Update

COVID-19 Legislative and Regulatory Actions To-Date

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Agenda

- The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act
- CMS Accelerated and Advance Payments Program
- Medicare Telehealth Changes
- MGMA Advocacy and Resources



The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act

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The CARES Act

\$100 Billion appropriated to healthcare providers and hospitals

- **What is it?** The CARES [Act](#) allocated \$100 billion to the “Public Health and Social Services Emergency Fund” to reimburse (through grants and “other mechanisms”) eligible healthcare suppliers (i.e., physicians) and providers (i.e., hospitals) for healthcare related expenses or lost revenues that are attributable to COVID-19.
- **Who is eligible?** Healthcare entities, including physician practices, that provide healthcare, diagnoses, or testing are eligible.
- **Examples of non-reimbursable expenses:** Increased staffing or training, PPE, lost revenue
- **How do you receive funds?** Currently, unclear. HHS is instructed to review applications and make payments on a rolling basis. HHS is given flexibility in determining how the funds are allocated and is expected to release guidance on the application process shortly.
 - MGMA wrote a [letter](#) to the Administration to distribute funds via
 - Prepayments to enrolled suppliers not subject to recoupment
 - Immediate increase in the Part B conversion factor
 - Expedited grant programs

The CARES Act

Small Business Administration (SBA) Loans

- **What is it?** SBA's Paycheck Protection Program
- **Who can apply?** “Small businesses” (no more than 500 employees). Sole-proprietors, independent contractors and other self-employed individuals are eligible
- **How much?** A loan of up to 250% of the business’ average monthly payroll costs to cover 8 weeks of payroll and other expenses (rent, mortgage payments and utilities) up to \$10 million. SBA states that 75% of loan must go to payroll to get full forgiveness.
- **Forgiveness?** Forgiveness based on maintaining employee and salary levels. For portion of loan that is not forgiven, terms include a max term of 2 years and 1% interest
- **Term?** Must apply between February 15, 2020 and June 30, 2020.

Download a sample [form](#) to see the information that will be requested from you. SBA says program will be active **April 3rd, 2020**. SBA released its final interim [rule](#) on April 2, 2020. MGMA Government Affairs [resource](#).

The CARES Act

Medicare Sequestration

Medicare programs are exempt from 2% reduction under sequestration order during **May 1—December 31, 2020.**

10 SEC. 3709. ADJUSTMENT OF SEQUESTRATION.

11 (a) TEMPORARY SUSPENSION OF MEDICARE SE-
12 QUESTRATION.—During the period beginning on May 1,
13 2020 and ending on December 31, 2020, the Medicare
14 programs under title XVIII of the Social Security Act (42
15 U.S.C. 1395 et seq.) shall be exempt from reduction under
16 any sequestration order issued before, on, or after the date
17 of enactment of this Act.

CMS Accelerated and Advance Payments Program



Accelerated and Advance Payments Program

On March 28 CMS [announced](#) an expansion of its accelerated and advance payment program for Medicare participating health care providers and suppliers, to ensure they have the resources needed to combat the 2019 Novel Coronavirus (COVID-19).

Physician practices can request an advanced payment of up to 100% of the Medicare payment amount based on a three-month lookback period. Repayment of the loan is achieved through claims recoupment 120 days following loan disbursement; if loans are paid back within 210 days of loan disbursement (90 days from the date that repayment begins), there is no interest.

To qualify for accelerated or advance payments, the provider or supplier must:

- Have billed Medicare for claims within 180 days immediately prior to the date of signature on the provider's/ supplier's request form,
- Not be in bankruptcy,
- Not be under active medical review or program integrity investigation, and
- Not have any outstanding delinquent Medicare overpayments.

Applications are available through your local Medicare Administrative Contractor (MAC) and CMS has directed the MACs to administer funds within seven calendar days of a submitted request.

Medicare Telehealth Changes

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Medicare Telehealth Changes

Waivers

The Administration has lifted several requirements for providers billing Medicare telehealth services during the COVID-19 public health emergency.

- **Geographic restrictions** are waived meaning patients can receive telehealth services in non-rural areas.
- **Originating site restrictions** are waived meaning patients can receive telehealth services in their home.
- **Telephones** that have audio and video capabilities can be used to conduct telehealth services.
- OIG is [providing](#) flexibility for healthcare provider to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs
- OCR will exercise enforcement [discretion](#) and waive penalties for HIPAA violations against health care providers that serve patients in good faith through everyday communications technologies, such as FaceTime or Skype, during the COVID-19 nationwide public health emergency. Applications that are "public facing" (I.e.--Tik Tok) should not be used

Medicare Telehealth Changes

Waivers

- **New telehealth codes.** CMS will pay for 80 additional telehealth [codes](#), including home visits, emergency department visits, and therapy services. Providers can waive copayments for all telehealth services for Original Medicare beneficiaries.
- **Virtual check-ins.** Clinicians can provide virtual check-in services (HCPCS G2012, G2010) to both **new** and established patients. Previously, these services were limited to established patients only.
- **Telephone codes.** CMS will reimburse for telephone evaluation and management services provided by a physician (CPT 99441-99443) and telephone assessment and management services provided by a qualified nonphysician healthcare professional (CPT 98966-98968). CMS is waiving established patient requirement.
- **E-visits.** Licensed clinical social workers, clinical psychologists, physical therapists, occupational therapists, and speech language pathologists can provide e-visits (HCPCS G2061-G2063).
- **Removal of frequency limitations on Medicare telehealth.** Subsequent inpatient visits (CPT 99231-99233), subsequent skilled nursing visits (CPT 99307-99310), and critical care consult codes (CPT G0508-G0509) no longer have limitations on the number of times they can be billed.
- **FQHC and RHCs.** These facilities can now bill telehealth services, as mandated in the CARES Act.

Medicare Telehealth Changes

Regulatory Changes for Telehealth Billing

Place of Service:

- During the COVID-19 pandemic, telehealth services should be billed using the place of service (POS) code that would have been reported had the service been furnished in person. For example, a physician practicing in an office setting who sees patients via telehealth, instead of in person, would report POS-11-Office. Additionally, the telehealth modifier (modifier 95) should be applied to claim lines that describe services furnished via telehealth.
- In ordinary circumstances, billing guidance ordinarily provides to use POS-02-Telehealth code to indicate the billed service was furnished as a professional telehealth service from a distant site. Telehealth services identified using POS-02 are paid at the Physician Fee Schedule (PFS) facility rate because CMS believes the facility costs (clinical staff, supplies, and equipment) associated with the service would generally be incurred by the originating site, where the patient is located, and not by the practitioner at the distant site.

MGMA Government Affairs [resource](#) on telehealth waivers.

MGMA Advocacy and Resources

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MGMA Advocacy During COVID-19

Elevating the voice of medical groups during the national emergency

- [March 11, 2020](#): MGMA urges HHS to exercise telehealth waiver authority
- [March 18, 2020](#): MGMA joins coalition calling on House to ensure access to Medicare value-based care during COVID-19 pandemic
- [March 20, 2020](#): MGMA joins coalition calling on Congress to ensure sustainability of physician practices during COVID-19 emergency
- [March 23, 2020](#): MGMA joins coalition urging Congress to leverage health IT during COVID-19 emergency
- [March 25, 2020](#): MGMA joins broad coalition calling on Congress to ensure sustainability of physician practices during COVID-19 emergency
- [March 27, 2020](#): MGMA statement on emergency funding for medical practices
- [March 27, 2020](#): MGMA calls on HHS to immediately begin financial support of medical groups
- [March 27, 2020](#): MGMA urges HHS to further waive telehealth restrictions following CARES Act

Visit the [MGMA.com/COVID](https://www.mgma.com/COVID) for breaking legislative and regulatory news from Washington, DC.

MGMA20 | The Operations Conference

Join MGMA Virtually!

MGMA Government Affairs will provide an update on the latest COVID-19 policy developments impacting patient care and practice operations. The speakers will discuss up-to-the-minute legislative happenings as well as key regulatory changes on telehealth, quality reporting, and more.

MGMA Washington Update: COVID-19 Edition

Thursday, April 16th



Anders Gilberg, MGA
MGMA Senior Vice President,
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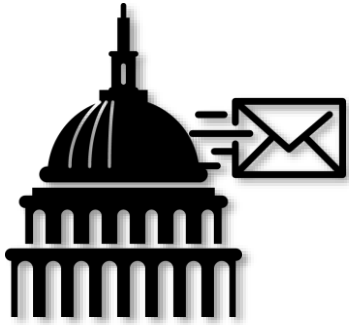


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Resources from MGMA Government Affairs



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Dedicated member e-groups ([link](#))

National members can discuss a wide variety of issues. Make sure to join the GovChat and COVID-19 eGroups.



Help advocate for
medical practices!

[MGMA.com/CONTACTCONGRESS](https://www.mgma.com/CONTACTCONGRESS)



Questions, Answers, and Final Points

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Can you apply for both a PPP loan and EIDL?

Has CMS waived the audio-visual requirements for all Telehealth visits?

What are the repayment conditions of the advance payments?

Do independent contractors count as employees for purposes of PPP loan forgiveness?

Important point – The 2019 MIPS data submission deadline is extended from March 31, 2020 to April 30, 2020 (or perhaps even later).

MIPS eligible clinicians who have not submitted any MIPS data by April 30, 2020 will qualify for the automatic extreme and uncontrollable circumstances exception and will receive a neutral payment adjustment for the 2021 MIPS payment year.

MIPS eligible clinicians that have submitted MIPS data already (or will submit data between now and the deadline) may submit an extreme and uncontrollable circumstances application by April 30, and any MIPS data they have submitted would not void their application.

Go to **qpp.cms.gov** for more information.

Thank you!

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