



April 6, 2020

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

**VIA ELECTRONIC MAIL**

Dear Administrator Verma:

The Cognitive Care Alliance (CCA), representing over 70,000 physicians from eight cognitively focused specialty societies, appreciates the swift action the Centers for Medicare & Medicaid Services (CMS) has already taken to ensure providers can continue to deliver patients necessary care during the COVID-19 public health emergency (PHE). CMS has taken unprecedented action to meet the clinical demands associated with this pandemic. The flexibilities that have been implemented protect both patients and providers from unnecessary exposure to COVID-19 and allow patients with the virus to receive care promptly and safely.

As this nation confronts the COVID-19 PHE, Medicare beneficiaries continue to require access to a well distributed, robust workforce with cognitive skills and clinical expertise to care for their ongoing health needs as well as treat COVID-19. The CCA is concerned, despite CMS' extraordinary efforts, that patient access to medically necessary safe and effective care is being undermined during the PHE. We appreciate that CMS has changed the status indicator for the telehealth E/M services (CPT codes 99866-8 and 99441-3) in response to stakeholder requests. However, the interim final rule with comment period (CMS-1744-IFC) correctly notes that these services do not "describe full E/M services, but rather are closely analogous to the virtual check-in services." These services are an important tool for providers to utilize during this emergency, but the patients with single or multiple complex, chronic conditions that take interacting medications, as well as have heightened levels of anxiety and apprehension stemming from the PHE, require the higher level E/M care represented by the outpatient E/M services.

We ask that Medicare immediately remove any barriers prohibiting the outpatient E/M services from being billed for telephone only visits when a video connection cannot be established. The current requirement for simultaneous video and audio connections for the outpatient E/M codes to be delivered via telehealth cannot always be met when patients require outpatient E/M care. Our members have encountered a number of factors that prevent successful simultaneous audio and video connections with their patients:

- Patients lack access to the devices required for audio and visual connections. Many older patients only have a traditional land line;

- Patients decline to establish video connections for a variety of personal reasons including their appearance and the state of their homes or are wary of any internet-based communication tool; or
- Video connections are dropped or “buffered” mid-sentence as a result of the demands the PHE is placing on broadband and other internet connections.

The CCA recognizes that important steps have been taken both to support care delivery via telehealth and the financial viability of practices. However, providers across the country face financial hardships as they primarily deliver care via telehealth. The CCA’s members are particularly vulnerable and may be forced to lay off staff who are still needed to reschedule, prioritize, counsel and triage patients and the required testing and referrals.

The CCA believes that providers, particularly those who primarily bill E/M services, should not be penalized during the COVID-19 PHE by being forced to bill the lower valued telephone E/M services when they cannot establish simultaneous audio and visual connections with their patients. Our members continue to deliver the same complex care by telephone as they carefully assess established patients’ ongoing, concurrent health needs. This is equally as true for new patients, particularly those who may have COVID-19, who demand the highest level of expertise and the medical decision making as evidenced by infectious disease specialists who are delivering care remotely.

Therefore, the CCA respectfully requests that CMS use the authority granted by section 3703 of the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-127) to create a modifier to allow outpatient E/M codes to be billed and reimbursed via telehealth when a clinician must rely on audio-only communication with patients when a patient declines a video connection or after failing to establish both audio and visual connections. Section 3703 provides the Secretary with additional Medicare telehealth flexibilities during this public health emergency, and the CCA is confident that the implementation of a modifier as described will ensure that Medicare beneficiaries continue to receive the complex care they require to remain healthy while helping minimize the financial strain being placed on providers.

Thank you for leadership during the COVID-19 emergency and for considering this urgent request. Please contact Erika Miller, CCA’s Executive Director, at [emiller@dc-crd.com](mailto:emiller@dc-crd.com) with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John Goodson" with a stylized flourish at the end.

John Goodson, MD  
Chair, Cognitive Care Alliance

**Cognitive Care Alliance Member Organizations:**

American Association of the Study of Liver Diseases

American College of Rheumatology

American Gastroenterological Association

American Society of Hematology

Coalition of State Rheumatology Organizations

Endocrine Society

Infectious Diseases Society of America

Society of General Internal Medicine