

## CMS Interim Final Rule Review

March 31, 2020

### OVERVIEW

On March 30, 2020, the Centers for Medicare and Medicaid (CMS) announced an Interim Final Rule (IFR), including the “Hospitals without Walls” initiative, to increase hospital inpatient surge capacity by leveraging outside healthcare facilities and temporary expansion sites for non-COVID patients. The temporary rule, which goes into effect immediately and will extend through the duration of the COVID-19 pandemic, outlines several new flexibilities for hospitals to address COVID-19. This one-pager focuses on provisions that expand hospital and workforce capacity; however, the rule also includes provisions on telehealth, ambulance care, and reducing administrative burden.

### Hospitals without Walls Initiative

The rule allows hospitals to establish special hospitals and clinics to treat only COVID patients to prioritize inpatient intensive care unit (ICU) beds and ventilators for COVID patients, and transfer non-COVID patients to the following types of facilities:

- *Healthcare facilities:* Including ambulatory surgery centers, inpatient rehabilitation hospitals, critical access hospitals, long-term care hospitals, skilled nursing facilities, and end-stage renal dialysis centers.
- *Temporary expansion sites:* Including hotels, dormitories, convention centers, gymnasiums, and temporary structures in parking lots and other non-traditional alternative care sites.
  - Several states have already begun working with FEMA to develop these unconventional expansions, such as [New York City’s Javits Convention Center](#) temporary hospital facility, at [McCormick Place in Chicago](#), and others. The rule expects hospitals to oversee these types of facilities on their own, without the involvement of FEMA or other federal agencies.

The rule also allows:

- Hospitals to set up triage centers that would direct patients to temporary expansion sites based on their needs.
- [Ambulances](#) to transport patients between temporary expansion sites, so long as sites are “able to provide treatment to the patient in a manner consistent with state and local EMS protocols.”

### Hospital Workforce Flexibilities

The rule also:

- Allows hospitals to provide benefits to their workforce, including meals, childcare services, and laundry services without violating anti-kickback laws.
- Allows some healthcare workers to practice at the top of their license. For example, it allows nurse anesthetists to perform additional surgical duties, freeing up anesthesiologists to focus on ICU patients, and permits lab technicians to be reimbursed for providing COVID-19 testing in the home for Medicare beneficiaries who cannot travel.
- Waives a previous requirement that supervising physicians be in-person at the same site as billing providers, allowing physicians to virtually supervise billing healthcare providers from offsite settings, including the home.
- Allows out-of-state practitioners to provide telehealth services in another state as needed.

### **Telehealth Flexibilities**

The rule allows the following telehealth flexibilities:

- CMS added 80 new telehealth service codes, including for emergency department visits, nursing facility visits, home visits and audio-only evaluation and management services. These services will be reimbursed at the same rate as in-person services.
- Several settings are now considered eligible telehealth sites: Federally Qualified Health Centers and Rural Health Clinics, home health and hospice providers, inpatient rehabilitation facilities, nursing homes, and end-stage renal dialysis settings.
- Remote patient monitoring capabilities have been expanded to include both acute and chronic conditions, regardless of pre-existing patient and provider relationships.

### **RESOURCES**

- [CMS: Coronavirus Waivers & Flexibilities](#)
- [CMS-1744-IFC: Revisions in Response to the COVID-19 Public Health Emergency](#)
- [CMS: COVID Flexibilities Overview Graphic](#)
- [CMS Press Release: Additional Background: Sweeping Regulatory Changes to Help U.S. Healthcare System Address COVID-19 Patient Surge](#)

ASTHO will continue to monitor additional CMS rules and guidance as they develop. If you have any questions or require additional information, please email [preparedness@astho.org](mailto:preparedness@astho.org).