HSS Center for Advancement of Value in Musculoskeletal Care
HOSPITAL FOR SPECIAL SURGERY

September 9, 2024

The Honorable Chiquita Brooks-LaSure
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1807-P
P.O. Box 8016
Baltimore, MD 21244-8016

Submitted electronically at https://www.regulations.gov.

RE: CMS-1807-P

Response to Medicare and Medicaid Programs; CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments.

Dear Administrator Brooks-LaSure,

We are pleased to have the opportunity to comment on CMS proposed rule CMS-1807-P. Our institution, Hospital for Special Surgery (HSS) is the world's leading academic medical center focused on musculoskeletal health and the oldest orthopedic hospital in the United States. HSS has been ranked number one for orthopedics for 15 consecutive years by U.S. News & World Report and has been among the top-ranked hospitals for both orthopedics and rheumatology for 32 consecutive years.

Our comments are focused on 1) evidence to support the transition of physical therapy services from being covered as telehealth services provisionally to being a permanent addition to the Medicare telehealth services list; 2) a call for clarification from CMS on the proposal to conduct a comprehensive analysis of codes that stakeholders requested for permanent inclusion on the Medicare telehealth list; and 3) the continuation of Medicare telehealth flexibilities beyond the December 31, 2024 extension of telehealth flexibilities established by the 2023 Omnibus legislation.

Background

In 2018, HSS launched a post-acute telehealth program, HSS@Home, in response to CMS's Comprehensive Care for Joint Replacement program. The program grew rapidly, with over 1,400 tele PT visits performed in 2019 compared to 54 visits in 2018. With the increase in telehealth popularity due to the pandemic, HSS@Home grew to over 26,000 visits between 2020 and 2023 and is on pace for more than 7,500 visits in 2024.

HSS also successfully transitioned a significant amount of ambulatory outpatient physical therapy care to telehealth during the COVID-19 pandemic. In 2020, 35% of all visits provided were tele PT with 62,000 tele PT visits, compared with 114,000 in-person visits. As the pandemic slowed and the public health emergency ended, telehealth has decreased to 9%, 5% and 4% of total visits in 2021, 2022, and 2023, respectively. Even with the ability to perform tele PT, a high majority of care has returned to in-person visits. However, at HSS tele PT remains an important option for use cases that best meet patients' needs and it is critical that it stay that way.

Evidence to support the transition of physical therapy services from being covered as telehealth services provisionally to being a permanent addition to the Medicare telehealth services list.

During the six weeks following total hip (THA) or total knee arthroplasty (TKA), patients undergo 'post-acute' PT which has traditionally been delivered either in-home or at an ambulatory therapy center. HSS@Home is a post-acute care tele PT program for THA and TKA designed to be used in lieu of in-person care[1]. Based on our experience with this tele-physical therapy program, we are pleased to demonstrate that these services (Table 1) meet CMS criteria for permanent addition to the Medicare telehealth services list as follows:

- The proposed rule states that CMS has "determined that [physical therapy] services did not meet the criteria for permanent addition to the Medicare telehealth services in Category 1 because they are therapeutic in nature and in many instances involve direct physical contact between the practitioner and the patient." This broad statement seems to reference the codes listed in Table 1. Based on our experience, a subset of these codes for physical therapy (codes 97161-97164) are evaluative and do not require direct physical contact. Physical therapy evaluation can be performed safely and effectively via real-time two-way video conferencing. To perform tele PT, physical therapists speak with patients and observe patient movement using "strong subjective questioning, clear communication, a sound understanding of functional movement patterns – and a systemic process that can differentially diagnose, treat or refer as needed[2]." This process allows physical therapists to evaluate patient status effectively as if the patient were in person. For these reasons, codes 97161-97164 should be transitioned from provisional to permanent. We strongly encourage CMS to move forward with these changes.

- Evaluation of HSS@Home has demonstrated that patients treated with telehealth-based post-acute rehabilitation had statistically indistinguishable rates of 90-day ER-visits, readmissions, and complications compared to home health after THA and TKA[3]. A subset analysis of patients who underwent TKA demonstrated similar patient-reported outcomes and complication rates including manipulation under anesthesia, and when compared to conventional PT patients, suggesting that telerehab is an equally effective alternative to conventional physical therapy[4]. Other research has shown tele-PT to provide care at decreased cost with equivalent outcomes and patient satisfaction[5]. Tele PT has been shown to be a viable discharge option for providing value-based care for lower-extremity arthroplasty patients in the post-acute setting.[6]For these reasons, codes 97110, 97112, and 97116 should be transitioned from provisional to permanent. We strongly encourage CMS to move forward with these changes.

Clarification from CMS on the proposal to conduct a comprehensive analysis of codes that stakeholders requested for permanent inclusion on the Medicare telehealth list

In the CY 2024 final rule, CMS stated that the specific provisional therapy codes listed would remain on the Medicare telehealth services list through December 31, 2024 as mandated by the 2023 Omnibus Appropriations legislation. In the CY 2024 final rule CMS also described steps that would be taken to determine whether codes

requested for permanent status were appropriate for recategorization. In the CY 2025 proposed rule CMS stated that while they have confirmed steps to evaluate whether codes should be made permanent, further adjustments will not be made to the permanent or provisional lists until such a time that the agency has the opportunity to complete a comprehensive analysis of provisional codes recommended for permanent status on the Medicare telehealth list. We are requesting that CMS define the comprehensive analysis proposed in the rule and clarify the following questions:

- Will this comprehensive analysis take place during a specific time period and include all codes that stakeholders have requested for permanency, or will they be individually evaluated on a rolling basis?

- What time period will be examined in analysis of telehealth codes and usage?

- Will stakeholders have the opportunity to submit evidence to support appropriateness of permanent services before or during the analysis period and what will be the process for doing so?

- Will CMS still conduct this comprehensive analysis if there is not legislative action on the extension of current telehealth flexibilities at the end of 2024?

With regard to physical therapy telehealth services, stakeholders have submitted requests for the same codes to be transitioned from provisional to permanent through multiple rulemaking cycles and these requests have not resulted in a change in status. CMS states that the data made available to them has not amounted to evidence that would warrant a change from permanent to provisional based on the five-step process established to determine whether codes should be transitioned. While we believe there is already enough evidence to transition the therapy codes mentioned above to the permanent category, we are willing to consult with CMS staff on the appropriateness of the permanent addition of these services on the Medicare telehealth list. Below we are sharing a list of resources that we believe provide the necessary evidence to transition the codes mentioned above to permanent status:

- LeBrun DG, Martino B, Biehl E, Fisher CM, Gonzalez Della Valle A, Ast MP. Telerehabilitation has similar clinical and patient-reported outcomes compared to traditional rehabilitation following total knee arthroplasty. Knee Surg Sports Traumatol Arthrosc. 2022 Dec;30(12):4098-4103. doi: 10.1007/s00167-022-06931-6. Epub 2022 Mar 26. PMID: 35347376. Fisher C, Wysin C, Moeller L, Nguyen J. Scaled TelePhysical Therapy Program a Promising Option for Post-acute Care of Lower-Extremity Arthroplasty Patients. HSS J. 2024 Feb;20(1):41-47.

- McKeon, John F. MD; Alvarez, Paul M. MD; Vajapey, Anuhya S. MS; Sarac, Nikolas MD; Spitzer, Andrew I. MD; Vajapey, Sravya P. MD, MBA. Expanding Role of Technology in Rehabilitation After Lower-Extremity Joint Replacement: A Systematic Review. JBJS Reviews 9(9):e21.00016, September 2021.Tsang MP, Man GCW, Xin H, Chong YC, Ong MT-Y, Yung PS-H. The effectiveness of telerehabilitation in patients after total knee replacement: A systematic review and meta-analysis of randomized controlled trials. Journal of Telemedicine and Telecare. 2024;30(5):795-808. doi:10.1177/1357633X221097469

Continuation of Medicare telehealth flexibilities beyond the December 31, 2024 extension of telehealth flexibilities established by the 2023 Omnibus legislation

The list of providers able to furnish Medicare telehealth therapy services has aligned with congressional mandates since the onset of the 2020 public health emergency. Congress is expected to pass a one- or two-year

extension of current flexibilities which would allow physical therapists to continue providing Medicare telehealth services. During this expected extension period, we urge CMS to engage directly with stakeholders to gain access to evidence that would establish a satisfactory confirmation of the clinical benefits of tele PT services and would best support the transition of the above therapy codes from provisional to permanent.

We appreciate your consideration of our comments and are happy to provide clarification. For any questions regarding the HSS experience please contact me directly at macleanc@hss.edu.

Best regards,
Catherine MacLean, MD, PhD
Chief Value Medical Officer

References:

1. MacLean CH, Titmuss M, Lee J, Russell L, Padget DE. The clinical, operational and financial components of a successful bundled payment program for lower extremity total joint replacement. In press for *NEJM Catalyst Innovations in Care Delivery.*
2. Noel, Kimberly and Fabus, Renee. Telehealth, 1st Edition. Incorporating Interprofessional Practice for Healthcare Professionals in the 21st Century. 2023. Elsevier
3. Fontana MA, So M, Titmuss M, Biehl E, Fisher C, MacLean CH. Telehealth Versus Home Health Post-Acute Physical Therapy after Total Joint Arthroplasty**.** *Under review.*
4. LeBrun DG, Martino B, Krell EC, Biehl E, Fisher CM, Zhang Y, Do H, Chiu YF, Gonzalez Della Valle A, Ast MP. Telerehabilitation is non-inferior to traditional rehab following TKA: A matched cohort study. Poster presentation at: American Association of Hip & Knee Surgeons Annual Meeting. Dallas, TX, USA. November 2021.
5. McKeon, John F. MD; Alvarez, Paul M. MD; Vajapey, Anuhya S. MS; Sarac, Nikolas MD; Spitzer, Andrew I. MD; Vajapey, Sravya P. MD, MBA. Expanding Role of Technology in Rehabilitation After Lower-Extremity Joint Replacement: A Systematic Review. JBJS Reviews 9(9):e21.00016, September 2021.
6. Fisher C, Wysin C, Moeller L, Nguyen J. Scaled TelePhysical Therapy Program a Promising Option for Post-acute Care of Lower-Extremity Arthroplasty Patients. HSS J. 2024 Feb;20(1):41-47.

Table 1. Codes for physical therapy services proposed to be included in CMS telehealth services list.

Service Type	HCPCS	Long Descriptor
Therapy Procedures	97110	Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility
	97112	Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities
	97116	Therapeutic procedure, 1 or more areas, each 15 minutes; gait training (includes stair climbing)
Physical Therapy Evaluations	97161	Physical therapy evaluation: low complexity, requiring these components: A history with no personal factors and/or comorbidities that impact the plan of care; An examination of body system(s) using standardized tests and measures addressing 1-2 elements from any of the following: body structures and functions, activity limitations, and/or participation restrictions; A clinical presentation with stable and/or uncomplicated characteristics; and Clinical decision making of low complexity using standardized patient assessment instrument and/or measurable assessment of functional outcome. Typically, 20 minutes are spent face-to-face with the patient and/or family.
	97162	Physical therapy evaluation: moderate complexity, requiring these components: A history of present problem with 1-2 personal factors and/or comorbidities that impact the plan of care; An examination of body systems using standardized tests and measures in addressing a total of 3 or more elements from any of the following: body structures and functions, activity limitations, and/or participation

		restrictions; An evolving clinical presentation with changing characteristics; and Clinical decision making of moderate complexity using standardized patient assessment instrument and/or measurable assessment of functional outcome. Typically, 30 minutes are spent face-to-face with the patient and/or family.
	97163	Physical therapy evaluation: high complexity, requiring these components: A history of present problem with 3 or more personal factors and/or comorbidities that impact the plan of care; An examination of body systems using standardized tests and measures addressing a total of 4 or more elements from any of the following: body structures and functions, activity limitations, and/or participation restrictions; A clinical presentation with unstable and unpredictable characteristics; and Clinical decision making of high complexity using standardized patient assessment instrument and/or measurable assessment of functional outcome. Typically, 45 minutes are spent face-to-face with the patient and/or family.
	97164	Re-evaluation of physical therapy established plan of care, requiring these components: An examination including a review of history and use of standardized tests and measures is required; and Revised plan of care using a standardized patient assessment instrument and/or measurable assessment of functional outcome Typically, 20 minutes are spent face-to-face with the patient and/or family.