

Agenda

Rulemaking Advisory Committee

Workers' Compensation Division Rules,

- OAR 436-009, Oregon Medical Fee and Payment

Type of meeting:	Rulemaking advisory committee
Date, time, & place:	May 18, 2020, 1 p.m. to 3 p.m. <i>Please join meeting from your computer, tablet or smartphone.</i> https://global.gotomeeting.com/join/181361557 <i>You can also dial in using your phone.</i> <i>United States (Toll Free): 1 877 568 4106</i> <i>Access Code: 181-361-557</i>
Facilitators:	Fred Bruyns and Juerg Kunz, Workers' Compensation Division
1:00 to 1:10	Welcome and introductions; meeting objectives
1:10 to 2:55	Discussion of issues – see attachment .
2:55 to 3:00	Summing up – next steps – thank you!

Attached: [Issues document](#)

**Oregon Administrative Rule Revision
Chapter 436, Division 009**

Issue # 1 (1821)

Rule: Appendix B (OAR 436-009-0040)

Issue: In response to COVID-19, the payments for phone and online evaluation/assessment and management were raised to mirror payment of in person visits, effective March 8, 2020. Without a permanent rule change, the payments would return to pre-COVID-19 levels on September 21, 2020.

Background:

- There are four sets of codes where the division raised the fee schedule amounts through temporary rulemaking due to the COVID-19 pandemic:
 - CPT[®] codes 99441 – 99443: Telephone services that are non-face-to-face evaluation and management (E/M) services provided to a patient using the telephone by a physician or other qualified healthcare professional who may report evaluation and management services.
 - CPT[®] codes 99421 – 99423: Online digital evaluation and management services by physicians or other qualified healthcare professionals. Online digital E/M services require a physician’s or other qualified healthcare professional’s evaluation, assessment, and management of the patient.
 - CPT[®] codes 98966 – 98968: Telephone services that are non-face-to-face assessment and management services provided by qualified non-physician, e.g., speech-language pathologist, physical or occupational therapist, to a patient using the telephone.
 - CPT[®] codes 98970 – 98972: Qualified non-physician healthcare professional online digital evaluation and management services that require the healthcare professional patient evaluation and decision making to generate an assessment and subsequent management of the patient.
- The division increased the rates for telephonic and online digital evaluation/assessment and management services to mirror payment rates for an equivalent office visit. This allowed providers to increase their capacity to serve patients via telephone or online digital delivery methods. In light of the pre-COVID-19 pandemic discussion around access to care, it may be prudent to continue to make alternatives to in-person visits more widely available. The division seeks advice about the appropriate level of payment for these services going forward.

**Oregon Administrative Rule Revision
Chapter 436, Division 009**

Options:

- Adopt the fee schedule amounts (in effect since March 8, 2020) for the codes listed in the table below.

Code	Time (Min)	Non-Facility	Facility
99421	5-10	\$93.63	\$53.40
99422	11-20	\$154.35	\$106.07
99423	21-30	\$223.84	\$163.12
99441	5-10	\$93.63	\$53.40
99442	11-20	\$154.35	\$106.07
99443	21-30	\$223.84	\$163.12
98966	5-10	\$79.59	\$45.39
98967	11-20	\$131.20	\$90.16
98968	21-30	\$190.26	\$138.65
98970	5-10	\$79.59	\$45.39
98971	11-20	\$131.20	\$90.16
98972	21-30	\$190.26	\$138.65

- Adopt new payment amounts other than those listed in above table.
- Allow the temporary rule to expire, which results in the following maximum payment amounts, effective September 21, 2020:

Code	Time (Min)	Non-Facility	Facility
99421	5-10	\$31.45	\$27.07
99422	11-20	\$62.91	\$55.59
99423	21-30	\$101.68	\$88.51
99441	5-10	\$29.26	\$27.07
99442	11-20	\$57.06	\$54.13
99443	21-30	\$83.39	\$80.47
98966	5-10	\$27.16	\$25.12
98967	11-20	\$52.95	\$50.24
98968	21-30	\$77.39	\$74.68
98970	5-10	80% of billed	80% of billed
98971	11-20	80% of billed	80% of billed
98972	21-30	80% of billed	80% of billed

- Other?

Fiscal Impacts, including cost of compliance for small business:

Recommendations:

**Oregon Administrative Rule Revision
Chapter 436, Division 009**

Issue # 2 (1826)

Rule: Appendix B

Issue: Appendix B does not list HCPCS code T1014 (telehealth transmission), even though the code is specifically listed in OAR 436-009-0012 as not payable.

Background:

- A stakeholder noted that under OAR 436-009-0012 - Telemedicine, it states that insurers are not required to pay a telehealth transmission fee (HCPCS code T1014). This code is not found in Appendix B. It would be helpful, if the code was listed in Appendix B with a \$0.00 fee.
- OAR 436-009-0040(1)(a) states that services billed with HCPCS codes not listed in the fee schedule are payable at 80% of the provider's usual fee. Since HCPCS code T1014 is not listed in Appendix B, it could be interpreted that code T1014 is payable at 80% of billed. Because, OAR 436-009-0012(4)(e) states that insurers are not required to pay a telehealth transmission fee (HCPCS code T1014), adding the code to Appendix B with a payment amount of \$0.00 may help clarify that a telehealth transmission is not a payable service.

Options:

- Add code T1014 with a payment amount of \$0.00 to Appendix B.
- Make no change.
- Other?

Fiscal Impacts, including cost of compliance for small business:

Recommendations:

**Oregon Administrative Rule Revision
Chapter 436, Division 009**

Issue # 3 (1825)

Rule: 436-009-0012 Telemedicine

Issue: The division has learned during the COVID-19 pandemic that some stakeholder are uncertain what services may be provided through telemedicine.

Background:

- In 2019, the division held a stakeholder advisory committee meeting discussing the creation of a rule regarding telemedicine. The committee asked the division to create a rule outlining billing and payment standards for telemedicine services. The committee recommended that the rules should not contain any provisions regarding what specific services are appropriate for telemedicine. Therefore, the committee recommended against referring to specific CPT[®] codes.
- Although OAR 436-009-0012 does not make any references to specific CPT[®] codes, because the division has adopted the CPT 2020 in OAR 436-009-0004(2), OAR 436-009 as a whole could be interpreted as restricting telemedicine services to only those listed in Appendix P of CPT 2020.
- Based on the input from stakeholders, the division's intent is not to limit telemedicine to certain codes by rule. However, all services, regardless of the form of communication, must be appropriate, which includes that the form of communication is appropriate for the service provided. Therefore, a clarifying provision in OAR 436-009-0012 may be useful.

Options:

- Add to OAR 436-009-0012(2): Notwithstanding OAR 436-009-0004, medical services that may be provided through telemedicine are not limited to those in Appendix P of CPT 2020. However all services, regardless of the form of communication, must be appropriate. The form of communication must be appropriate for the service provided.
- Make no change.
- Other?

Fiscal Impacts, including cost of compliance for small business:

Recommendations:

**Oregon Administrative Rule Revision
Chapter 436, Division 009**

Issue # 4 (1822)

Rule: OAR 436-009-0012 Telemedicine

Issues:

- The current rule is limited to telemedicine provisions (real-time interactive audio and video telecommunication), but does not include any provisions regarding other forms of telehealth, such as telephonic or online digital services.
- The current rule is silent regarding billing requirements for telephonic or online digital services.

Background:

- Since the start of the COVID-19 pandemic, providers and patients increasingly have been communicating through a variety of telehealth services. This includes synchronous medical services provided via a real-time interactive audio and video telecommunications system (telemedicine), as well as telephonic or online digital ways.
- While OAR 436-009-0012(2) provides billing instructions for telemedicine services (use of modifier 95 and place of service (POS) “02”), we have learned through questions from stakeholders that it is not clear how to bill for other telehealth services, such as telephonic and online digital services. Additionally, CMS released the following guideline on April 10, 2020: *When billing professional claims for all telehealth services with dates of services on or after March 1, 2020, and for the duration of the public health emergency (PHE), bill with Place of Service (POS) equal to what it would have been had the service been furnished in-person.* The American Medical Association’s CPT 2020 lists POS code “02” as telehealth. It may be helpful to stakeholders to add a rule provision that instructs providers to use POS “02” without modifier 95 when providing workers’ compensation medical services via telephone or online digital means, regardless of whether the services are provided during or after the period of the PHE.

Options:

- Add a definition of telehealth: Telehealth means the provision of healthcare remotely by means of telecommunications technology, including but not limited to telemedicine and services provided via telephone or online digital means.
- Clarify that the definitions of distant and originating sites apply to telehealth services, not just telemedicine services.
- Clarify that providers should bill for telephonic and online digital services with POS “02” and not use modifier 95.
- Make no change.
- Other?

Fiscal Impacts, including cost of compliance for small business:

Recommendations:

**Oregon Administrative Rule Revision
Chapter 436, Division 009**

Issue # 5 (1824)

Rule: 436-009-0110 Interpreters

Issue: There are no billing codes or instructions how to bill for interpreter services provided via a real-time interactive audio and video telecommunications system or via telephone. The one hour minimum payment requirement may not be appropriate for services provided via video or telephone.

Background:

- The division has learned that interpreters may provide interpreter services via a real-time interactive audio and video telecommunications system or via telephone. However, the rules do not provide any guidance how to bill for services furnished via real time video or telephone.
- Current rules require insurers to pay interpreters for a minimum of one hour, even if the actual face-to-face time is less than that. The division seeks advice about whether the same one hour minimum should apply, if the service is provided via real time video or telephone.

Options:

- Create Oregon specific codes and fee schedule amounts for interpreter services provided via real time video or telephone.
- Instruct interpreters to use modifiers to be used with existing billing codes (D0004, D0005, and D0006) to identify services provided via real time video or telephone.
- Make no change.
- Other?

Fiscal Impacts, including cost of compliance for small business:

Recommendations: