Centers for Medicare and Medicaid Services
COVID-19 Call with Ambulatory Surgery Centers
December 1, 2020
4:00 p.m. ET

OPERATOR: This is Conference #4899627

Alina Czekai: Good afternoon and thank you for joining our December 1st call with Ambulatory Surgery Centers. This is Alina Czekai, leading stakeholder engagement on COVID-19 in the Office of CMS Administrator, Seema Verma.

It's now my pleasure to introduce Jean Moody-Williams, Deputy Director at CMS' Center for Clinical Standards and Quality. Jean over to you.

Jean Moody-Williams: Thank you so much, Alina, and thank you everyone for joining the call today. We wanted to take this opportunity to review some of the announcements that we released on last week, related to flexibilities for ambulatory surgery centers. And we have a number of our colleagues on the line that may be able to answer any questions that you have related to the announcement.

And before I go into any of the details, I'd like to welcome Dr. Lee Fleisher, who is the Chief Medical Officer for CMS as well as the Director of the Center for Clinical Standards and Quality for a few opening remarks. Lee?

Lee Fleisher: Yes, thank you so much, Jean. And it's a pleasure to join you today. As a practicing anesthesiologist, I'm quite familiar with the ambulatory arena and having practiced both the in-patient and in-hospital based in ASC settings.

And the ability having been a chairman of anesthesia just five and a half months ago, while the original COVID search was occurring, realized the potential utility of using ASCs as of – an ability to continue to do surgery that should not be delayed, certainly cancer surgeries and other such procedures.

And given the most recent surge, the ability to ensure care continues for beneficiaries, while providing appropriate capacity issues for the hospitals, it was great to talk to the ASC Association, the community, to give us ideas of how to continue to see how we can utilize all the resources of the healthcare ecosystem.

So with that note, I'll turn it back to Jean to sort of walk through how we hope some of these waivers, if you truly do make sure that you are helping relieve hospital capacity can be utilized. So thank you, Jean.

Jean Moody-Williams: Thank you, Lee. And, again, let me just take the time to thank you for what you do on a daily basis, but especially over the past several months, which has been challenging for all of us.

And needless to say, we are still in the midst of a crisis with expanding the capacity in many areas of the country. As a matter of fact, just was listening to a healthcare system, who describes themselves as being overwhelmed and needing additional capacity. So we're looking to see how we can use the flexibilities available to us at the federal level, to remove any barriers that may be in your way.

So as we, as you know in April this year, we utilized our 1135 emergency waiver authority to create additional flexibilities that would allow ambulatory surgery centers to temporarily enroll as hospitals. And by doing so, you could provide hospital services to help address the urgent needs and capacity needs for patients.

Eighty-five facilities actually took advantage of those flexibilities and – but we heard from others that they did not take advantage of the waivers for various reasons.

But one of the main concerns that came to light was the provision of the 24/7 nursing requirements, as well as we understand there are challenges within state requirements that were also, perhaps, reasons that people did not take advantage of the flexibilities.

So in order to really get a handle on it, as Lee mentioned, he and the administrator met with representatives from several ambulatory surgery centers, who noticed that while they may not necessarily consider that their facility as the best place to provide COVID – care for COVID-19 patients related to acute care, they could serve integrated capacity to conduct surgical procedures that may be traditionally performed in a hospital setting but could be safely performed in an ambulatory surgery center.

So as a result of these discussions and feedback that we've received, last week, CMS announced an update to clarify the regulatory flexibility. So by using the Hospital Without Walls waiver that was released back in April, ambulatory surgery center can continue to consider enrolling as the hospital and perform surgical procedures that may require more than 24 hours of care or – and admission, because you'll be serving as the hospital and which would require appropriate nursing coverage.

But we did clarify the ambulatory surgery centers need only provide the 24-hour nursing service when there's actually one or more patients receiving care on site. So if you don't have any patients on site, you would not have to have a nurse – a registered nurse there in the facility.

So we are hoping that this clarification will allow ambulatory surgery centers, enrolled as hospitals with the ability to really flex up their staffing when needed, and provide, perhaps, important relief valve in the community experiencing constraints in the hospital, while not mandating that that nurse be present, or those nurses be present with the – when there are no patients there.

Now, this flexibility is available to any of the – over 5,000 ambulatory surgery centers throughout the country who would be seeking to participate. And there is an enrollment process for that. But it is effective immediately for the 85 facilities that are already participating in the Hospital Without Walls.

And as a hospital, so, of course, you're not limited to keeping the patient to 23 hours and 59 minutes, and you can perform certain procedures that may require longer recovery periods and then bill appropriately as a hospital do these waivers for the extension of the public health emergencies.

Now, it is important to note that patients admitted to the ambulatory surgery center under the Hospital Without Walls waiver should remain at the ASC until discharge, unless that patient develops the complication which can't be handled by the ASC. So if they need extensive diagnostic imaging or critical care services, obviously, the patient needs to get the care at the – at the right place at the right time.

But if the ASC is participating as Hospital Without Walls program, and during the PHE, a surgeon desires to admit a patient after their post – and for their post-anesthesia care, the surgeon could notify the facility there's need for the extended mission and that patient could get that care.

If the patient is discharged to home from the ASC and requires a readmission or observation care for routine complications. Generally, we're talking about hydration, pain management or other post-surgical issues, they should be readmitted to the ASC which is, of course, that has – serving as their hospital. And the on call nurse staff – appropriate staff requests should be activated and the appropriate personnel including that nurse should be brought back in. So that would be the expectation for the ambulatory surgery center.

We will monitor how these flexibilities are being utilized. We continue to do that. We want to – at utmost ensure that patients are receiving the services that they are being billed for and that the hospital care is, in fact, appropriate. And we will work with you as well. If you have questions. a lot of this information is on our website. And we also have the ability to answer questions in just a few minutes.

But before I open it up for questions, just let me mention that ambulatory surgery centers that are not – that choose not to enroll as a hospital, they would still have to remain in compliance with all the non-waived ambulatory surgery center requirements.

And I will say that we still have many waivers in effect. So I encourage you to look at those but anything that's non-waived, would still be required for an ASC that's not enrolled in the hospital, including the 24 admission limitation.

However, we will use enforcement discretion if there's a reason to keep the patient a bit longer than the 24 hours in your ambulatory surgery center capacity to provide care to prevent that transfer or to the hospital for care that you could safely perform.

Obviously here, we're not talking about care that's going to extend up to two midnights, for example, or anything of that nature, but we will use enforcement discretion there during this PHE. We will be putting out additional guidance on this as well.

So, of course, I mentioned another challenge being the state laws. And be aware that this waiver of federal requirement does not supersede state law, or any administrative requirements that may limit your ability to act as a hospital.

However, we are encouraging governors and health commissioners and secretaries of health to consider all flexibilities that are available to them to handle the surge due to the pandemic. And we continue to encourage them to look to see what things they can waive within the state.

So I would suggest that you continue to work with your state partners to see what things then are being considered in your state level. And these flexibilities, again, we encourage you to use the ones that's most appropriate for you and we'll help to meet the needs of the patients in your community.

So with that, again, I'll note that we have the Acute Hospital at Home initiative application is on our website, and also the flexibilities that are available for ambulatory surgery centers also on our website through QSO. We call it quality safety and oversight memo.

And with that, let me stop and see if there are any questions that you may have for we have some subject-matter experts on the line. And if we don't have the answer to the question, we can always take that back.

And with that, Operator, let's please open up the line.

Operator: Thank you, Ma'am. At this time, I would like to instruct everyone in order to ask a question, please press star then the number 1 on your telephone keypad. Again, that's star then the number 1 on your telephone keypad. If you would like to withdraw your question, you can press the pound key. We'll pause just a moment to compile the Q&A roster.

Ma'am, we have your first question coming from the line of Bill Prentice. Your line is the live. Go ahead, please.

Bill Prentice: Thank you. And thank you, Jean and Lee and all the CMS staff for your work in this area. For others on the call, we've had some very productive meetings with the CMS team in terms of trying to address some of the concerns for the Hospital Without Walls program. And I think the steps you've taken are helpful.

And I don't really have a question. But I – but I do want to just commit that, that (ASCO) will share this information widely and do what we can to try and make sure that as ASCs around the country, particularly those in areas where there are spikes, are aware of these changes, aware of the benefits of the Hospital Without Walls programs and how they could help with their hospital partners in communities that are dealing with the pandemic, to make sure that patients can be seen. And I think these changes are helpful and something that we'll obviously trump it and do our best to try and get the word out to the community.

Jean Moody-Williams: Thank you, Bill. And you've – you and the association have been a wonderful source of feedback. And, obviously, we've used it to try and meet the need. So appreciate it. And we'll continue the feedback loop.

Are there other …

Operator: Thank you.

Jean Moody-Williams: … comments, questions?

Operator: Yes, ma'am. We have another one coming from (Christy Willis). Your line is now live. Go ahead, please.

Christy Willis: Hi, thank you so much for taking the time to meet with us. My question is our facility is newly registered to be part of the Hospitals Without Walls program. As a – since we're registered as a hospital, I just needed some clarification. Are we able to do outpatient procedures? And if so, are those still billed under Medicare Part A or would that be Medicare Part B?

I'm asking because we did some outpatient procedures and they were all denied. And I'm getting feedback for Medicare and for my clearing house that I'm only able to bill, since I'm registered as a hospital now under Medicare A. So that's a little bit confusing if we do a procedure that's less than 23 hours, obviously, they're not an inpatient. So how would we – how do you go about billing for outpatient procedures?

Jean Moody-Williams: Yes. Well, at first, thank you for enrolling. And you would be billing as hospital. And I'm going to turn to my CM colleagues to see if there's additional explanation there.

I'm not sure that you have the right folks on the line, but it's my understanding that you, once you're using your hospital billing number, you would be – you can't go back and forth in other words.

Christy Willis: Right.

Jean Moody-Williams: So once you are using that, you would bill that as a hospital.

Christy Willis: Right, OK.

Demetrios Kouzoukas: Jean, this is Demetrios. That's right.

Christy Willis: OK.

Jean Moody-Williams: OK.

Christy Willis: So even outpatient hospital procedures will also be under Medicare A?

Demetrios Kouzoukas: Right, outpatient hospital …

Christy Willis: OK.

Demetrios Kouzoukas: … procedures would be under – would be at a hospital.

Christy Willis: OK.

Demetrios Kouzoukas: They would be under Medicare that would – that they will be billed as a hospital patient. Now, if you were to sort of get a little exotic, you could maybe have two entities and two enrollments. I don't know, that starts to get a little complicated in terms of the survey insert aspects.

But in the main, I think the way we're envisioning the use of this is that the entire ASC becomes a hospital and operate as a hospital for the entire duration. It's not to foreclose the possibility that some other creative arrangement could be arrived at but that it's not …

Christy Willis: I guess my confusion comes from I thought, outpatient – all outpatient procedures, even hospital outpatient were billed under Medicare Part B. I guess maybe I'm incorrect there. They're also Medicare A for outpatient hospitals?

Demetrios Kouzoukas: No, I'm trying to – I'm going to – I was kind of trying to dodge the A versus B point because (inaudible) more of a technical distinction. I mean, you'd bill them as a hospital is what's important. And you're right, they would be under B.

Christy Willis: OK. All right. Thank you.

Demetrios Kouzoukas: But I think what you're getting at is you bill them as a hospital or an ASC.

Christy Willis: Well, I did, I billed as a hospital under B, and I was denied. And I was told that, "As a hospital, I can only bill under A," is what …

Jean Moody-Williams: Yes.

Christy Willis: … is I was told. So it's a little confusing.

Demetrios Kouzoukas: OK. Well, if you – you should go to us, if you can feed to Alina, the name of the MAC, and the situation you're talking about. I mean this is a bit of a new thing for all of us. So we have had at times to need to reach out to the MACs and make sure there's the right training. So maybe that's what's going on here.

Christy Willis: OK, thank you for your help.

Jean Moody-Williams: Yes. And we'll get that out in the way of an FAQ to all as far as that billing question, so thank you for that.

Christy Willis: Thank you. Thank you.

Jean Moody-Williams: Other questions?

Operator: Yes, ma'am. We have another one coming from (Scott Wessinger). Your line is live. Go ahead, please.

Scott Wessinger: Thank you. Yes, this is Dr. (Scott Wessinger) in Little Rock, Arkansas. And I want to echo Mr. Prentice's thanking CMS for making this easier to participate in the CMS waiver.

We enrolled early on and faced tremendous obstacles because this – at that time, the Arkansas Department of Health had no idea what was going on. The ASC Association was very helpful and CMS, as well as our carrier, I think is Novitas and they were – they were actually very helpful as well.

The big burden was in fact trying to get staffing because during this – even before the pandemic, everybody's short of nurses. But during this pandemic and with all the demand for more critical care, our ability to find nursing coverage has been a challenge. This is a tremendous move in the right direction to expand our ability to offer more and more surgical services to lessen the burden on the hospitals in our state.

And on behalf of the Arkansas Ambulatory Association that we have here, I want to thank the CMS for making this much easier. We're having quite a surge here in Arkansas, our hospitals are starting to get very, very full. And I

suspect this is obviously going to get worse as the winter progresses. And I think this is a great move to try to facilitate that.

We're also very happy to work through (Cara Newberry) to help any ASC that have had questions like this past question about working through the logistics, and we're happy to help do our part in helping people get access to the – a COVID-free environment, hopefully a COVID-free environment to get surgical services in the midst of this chaos. Thank you very much.

Jean Moody-Williams: Great, thank you for that. And thank you for all you're doing to help. You're quite right. Things are continuing to increase. So we do appreciate that.

Is there – do we have another question? We'll have time for about one more question or comment. And let me just say …

Operator: (Inaudible).

Jean Moody-Williams: … we appreciate the helpful technical assistance. For others that are looking to do that, we encourage that. And I know the association can help you with coordinating some of that. It's always good when you can hear from somebody that's already doing it, and has gone through some of the hoops as to how to make it work. So thanks again. Next.

Operator: Thank you, Ma'am. Your next one will be coming from (Suzy Mason). Your line is now live. Go ahead please.

Suzy Mason: Hi, good afternoon. Thank you again for having all of us on this call today. I just wanted to kind of circle back to that part A question that came through. We actually joined two of our facilities back in April when we first started the Hospital Without Walls program. And unfortunately, it was a challenge at first, but I think we've come full circle now. And we know exactly how to bill these claims out.

But I will tell you that in the beginning to struggle was that nobody seemed to be aware at CMS of what the Hospitals Without Walls program was in regards to the billing.

So yes, we have to bill as part A, we cannot bill as part B. The other challenge that we've had is getting access to our prior Part B claims with CMS because they don't currently let us see the Part B because they have basically deleted the Part B and activated the Part A, so it's inactive for part B and it's active for part A.

We bill as what's considered an HOPD outpatient as a hospital, so that hopefully will answer that question to the woman that asked earlier. So all the claims do have to go under part E – part A, sorry, in regards to the claims and the clearing house. Now I'm in California. So that's under our Noridian MAC. But my assumption would be that that's going to be the way it is across the board, across the country.

But what would be really helpful is to maybe get some team members together at CMS that would be like the go-tos in regards to the billing because I know that those were a lot of the questions. And we went for months, just round and round and round with getting the ability to get our claims submitted and processed correctly. And finally paid. It took about two and a half months to actually get our claims through and processed.

Now we've learned a lot. So if anyone has any questions for me and my team, we'd be happy to assist in any way that we could. But I just wanted to say that today.

Jean Moody-Williams: Yes, I appreciate that. And appreciate the offer for help. And we will ensure that we can get information out. That's one of the reasons we have these calls so we can get this kind of feedback. So thank you.

Suzy Mason: You're welcome.

Demetrios Kouzoukas: Sorry that you ended up in that kind of situation. That's definitely something we're trying to avoid. So I know that there's …

Suzy Mason: Right. I think it was new to everybody. So that's why right. There's always a challenge when something is …

Demetrios Kouzoukas: Yes.

Suzy Mason: … brand new. But it's been a great program. I will say we've appreciated having it and I know that the patients have appreciated being able to come and have their surgeries done when they otherwise probably would not have been able to have it done at a hospital because of the COVID cases.

So yes. But, yes. There was – there was definitely some, some challenges.

Demetrios Kouzoukas

Yes, and as – and as I think some confusion around what is a part B benefit, but maybe what is maybe colloquially referred to as part A billing but paid under – and based on the old days when we had carriers versus ...

Suzy Mason: Right. And the Part A as well that deductible for the patient is higher. And so you have to let your patients know as well that their deductible is going to go to the Part A and not to that part B benefit.

So there was – there was a lot of different things that we learned along the ways to make sure we – we're able to communicate that across the board. Just things we didn't even think about in the beginning, that just kind of came as we did it.

Jean Moody-Williams: OK, great. Thanks again. And we have come to the end of our time. But, again, we will look to perhaps have another call in a couple of weeks where we can see how it's going. And maybe you can share – we can share whatever we're learning and what you're learning. So, again, appreciate it.

And let me see if Lee or Demetrios, do you have any closing words?

Lee Fleisher: No, just thank you for all you're doing and hopefully, those who really are able to do those in-patient cases can enroll with Hospital Without Walls, or certainly those that the new flexibility with regard to enforcement discretion will allow you to take on patients. If your states agree that you might have not in the past, and gotten them out at 26 hours if that's what it takes. But thank you so much.

Jean Moody-Williams: Thank you. Alina, anything else?

Alina Czekai: Thank you, Jean. And thanks, everyone. I'll give out our COVID-19 email box so folks can send in any additional questions. That is covid-19@cms.hhs.gov.

This concludes today's call. Have a good rest of your evening.

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