# COVID-19 and expansion of services: Acute Hospital Care at Home

## Clinical risk management and insurance considerations

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Along with the signing of the March 2020 executive order that included the 1135 waiver broadening telehealth use in healthcare as a response to COVID-19, the Center for Medicare and Medicaid Services (CMS) also announced the Hospitals Without Walls program, which provides broad regulatory flexibility that allows hospitals to provide services in locations beyond their existing walls.[1] CMS believes that treatment for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic obstructive pulmonary disease (COPD) care, can be treated appropriately and safely in home settings with proper monitoring and treatment protocols.[2]

In November 2020, CMS expanded the opportunities to increase care outside of the hospital setting to include allowing ambulatory surgical centers to provide greater inpatient care when needed (only needing to provide 24-hour nursing services when they have one or more patients receiving care onsite) and, building on the expansion of telehealth services, allowing hospitals to provide services outside a hospital setting while maintaining capacity to critical non-COVID-19 care.[3] This program is known as Acute Hospital Care at Home (AHCAH) and is for beneficiaries who require inpatient admission to a hospital and who require at least daily rounding by a physician and a medical team monitoring their care requirements on an ongoing basis.

**CMS requires appropriate screening protocols before hospital at-home care can begin. Requirements include both medical and non-medical factors:**

- Working utilities
- Assessment of physical barriers and screening for domestic violence or abuse concerns
- Admission will only be out of the emergency department
- The home will require a hospital bed placement
- An in-person physician evaluation is required prior to the start of care at home
- A registered nurse will evaluate the patient once daily, whether in person or remotely
- Two in-person visits must occur daily, either by a registered nurse or mobile integrated health paramedic (must meet individual states' criteria), based on the nursing care plan and hospital policy[4]

The AHCAH program is different from home health in the following ways: home health provides skilled nursing and other skilled services in the home; AHCAH is for those patients who require acute inpatient admission to a hospital and require at least daily rounding by a physician and a medical team monitoring their care on an ongoing basis.

**The following diagnoses fit the criteria for AHCAH:**

- Primary or possible diagnosis of any infection
- Heart failure exacerbation
- COPD exacerbation
- Hypertensive urgency
- Previously diagnosed atrial fibrillation with rapid ventricular response
- Anticoagulation needs
- Age greater than 18 years
- End-of-life patient who requests only medical management[5]

Hospitals must keep in mind that this is not a blanket waiver but an individual waiver that, unlike telehealth expansion under the 1135 waiver, does require requests to waive §482.23(b) and (b)(1) of the Hospital Conditions of Participation, which require nursing services to be provided on premises 24 hours a day, seven days a week and the immediate availability of a registered nurse for care of any patient.[6]

**There are two categories of waiver requests based on a hospital's experience with acute care at home, and this waiver is only in effect for the duration of the COVID-19 pandemic public health emergency:**

- Hospitals must submit the waiver request for individual CMS certification numbers (CCNs), not entire systems. For those hospitals which have provided at-home acute hospital services to at least 25 patients previously, an expedited process will be conducted and include hospital attestation to specific existing beneficiary protections and reporting requirements. The immediate goal with this group is to allow experienced hospitals to rapidly expand care to Medicare beneficiaries. These hospitals will be required to submit monitoring data on a monthly basis.
- For those hospitals which have treated fewer than 25 patients or have never provided at-home acute hospital services, a more detailed waiver request will be required which emphasizes internal processes that prove capability of treating acute hospital care at-home patients with the same level of care as traditional inpatients. This group will consist of some hospitals which are part of a larger, experienced health system, as well as hospitals without any prior experience that are not part of a health system with experience. These hospitals will be required to submit monitoring data on a weekly basis. Furthermore, if multiple hospitals within a system wish to provide AHCAH services, then each hospital must apply for its own waiver.[7]

The AHCAH does not have to be administered within a hospital, but a hospital does need to accept responsibility for the program to satisfy the conditions of participation for this level of patient care. The program must also be integrated within a hospital such that, if hospitalization becomes necessary, the patient can be seamlessly accommodated.[8]

## Risk management considerations

**There are a variety of risk management considerations when a hospital system is considering adding AHCAH to an existing service line:**

- Does the system have sufficient providers to conduct the AHCAH care? This includes physicians, advanced providers, aides, administrative, etc.
- Will your clients/patients served participate; does your service area have clients/patients whose home is able to accommodate this type of care, the technology required, and do local/state laws and compliance regulations allow for this type of service?
- Do you have buy-in from payors; how will you create a reimbursement strategy?
- Does this fit into your organization's strategic vision?
- Has policy/procedure been created?
- Training, competency, auditing procedures will be necessary.
- Electronic health record navigator/tab will be needed for management and documentation purposes. Documentation needs to be consistent with existing policies for inpatient admissions.
- Auto-policy usage will require review.
- Informed consent for AHCAH is needed, assuming local/state regulations allow for AHCAH.

**Risk management considerations when a hospital system is considering adding AHCAH to an existing service line (continued)**

- The approved use of mobile integrated health paramedics is required for in-home visits. The paramedic needs to be recognized by an official body as being a mobile integrated health/community paramedicine (MIH/CP). Some states use specific licenses for MIH programs to recognize the additional training required to be considered MIH. Additionally, MIH paramedics must receive constant medical direction if not abiding by a protocol. The paramedic used in the MIH role needs to be employed or under contract with the hospital to provide the MIH service. The hospital is responsible for the services and care provided by this team member.[9]
- Once the waiver period has completed, is your organization qualified to continue the program? What long-term plans for continuation exist?

## Insurance considerations

Healthcare professional liability policies (HPL) are designed to address the many forms of services offered by healthcare professionals and, therefore, do not generally specify services by name or description. This means that the majority of HPL forms do not need endorsements to recognize a new service line or a change in regulation that allows for temporary changes to how care is provided. This flexibility in HPL forms was particularly impactful in 2020, as many providers had to find new ways to reach and treat their patients. However, when there are changes in services, other exclusions (or policy terms) can inadvertently come into play, making it critical to review policy forms for any potentially challenging exclusions and/or coverage terms. The sections of the HPL form to pay particular attention to would include: Named Insureds, Additional Insureds, Coverage Territory, Definitions, Exclusions, Insuring Agreements and any manuscripted endorsements.

In an AHCAH, or other similar program, a thorough review of policies for limitations on coverage territory or patient treatment locations is critical. While most HPL policies are written with a "worldwide coverage territory," meaning coverage is provided anywhere in the world, checking the definitions related to coverage territory is a good practice for all HPL policies. It is also important to review HPL policies for any language that may limit patient treatment to the insured's locations, or scheduled locations.

Another coverage consideration is whether these services will be provided by owned organizations and employees versus contracted to third parties. That determination will dictate any additional insured wording that needs to be included or amended. In the scenario where services will be contracted, developing a good contract checklist along with insurance and legal representatives will help ensure that the appropriate coverage is obtained and evidenced accurately for both parties.

As services change, it is always a good idea to keep insurance carriers informed of changes that could have a significant impact on operations or claim activity. This is especially true when offering a new service or providing a service in a new way. When in doubt, a quick conversation with your underwriter can alleviate any concerns and assure a smoother claim handling process in the future.

## Creativity, variability and diligence are key

The pandemic of 2020 has challenged the way many healthcare services have been delivered, and new models became achievable through waivers on long-standing regulations. As healthcare organizations seek methods of treating patients in a pandemic-safe environment and beyond, creativity and variability in method will allow the greatest outreach/positive outcomes to the community. Being cognizant of the impact to risk and insurance coverage can be challenging to keep up with but is a critical part of the process. Furthermore, understanding time constraints on waivers and paying attention to expiration dates of waivers, along with other regulatory considerations will determine which processes are temporary and which will become longer-term considerations in improving the healthcare of a particular community.

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[2] Ibid.

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[4] CMS guidelines.

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[8] Acute Hospital Care at Home Program Frequently Asked Questions (CMS, 2020) Accessed at: https://qualitynet.cms.gov/acute-hospital-care-at-home

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