# State of California Department of Industrial Relations DIVISION OF WORKERS’ COMPENSATION



## Order of the Administrative Director of the Division of Workers’ Compensation

**Official Medical Fee Schedule - Physician Services and Non-Physician Practitioner Services**

**– Effective for Services Rendered on or after April 15, 2020**

Pursuant to Labor Code section 5307.1, subdivision (g), the Administrative Director of the Division of Workers’ Compensation orders that the physician services and non-physician practitioner services fee schedule portion of the Official Medical Fee Schedule contained in title 8, California Code of Regulations, sections 9789.12.2 and 9789.19, is adjusted to conform to changes in the Medicare system, effective for services rendered on or after April 15, 2020. These changes are intended to increase the use of telehealth for providing workers’ compensation medical treatment during the COVID-19 public health emergency declared by Governor Gavin Newsom on March 4, 2020. ([Proclamation of State of Emergency](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf).)

### Background and Basis for Order

In light of the COVID-19 global pandemic, the state of California has undertaken far reaching measures to address the public health emergency and slow the spread of the virus. In order to protect the health of all residents and to preserve the capacity of the health care system, Governor Gavin Newsom has issued several Executive Orders, including the “stay at home” order ([Executive Order N-33-20](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf)) and the order easing statutes relating to telehealth ([Executive Order N-43-20](https://www.gov.ca.gov/wp-content/uploads/2020/04/4.3.20-EO-N-43-20-text.pdf)). In order to support the urgent need to slow the spread of the virus through “staying at home”, while also providing access to medical treatment for work-related injuries or illnesses, it is necessary to adjust the workers’ compensation Physician and Non-Physician Practitioner Fee Schedule coding to promote the use of telehealth.

The Division of Workers’ Compensation’s Physician and Non-Physician Practitioner fee schedule currently includes the American Medical Association’s *Current Procedural Terminology*, which is incorporated by reference into sections 9789.12.10 and 9789.19. The *Current Procedural Terminology* includes Appendix P, which sets forth codes that may be used where service is delivered through telemedicine utilizing real time telecommunications equipment that includes audio and video.

In order to encourage increased use of telehealth during the public health emergency, the Centers for Medicare and Medicaid Services (CMS) has made temporary changes to the Medicare Physician Fee Schedule by issuing an expanded list of telehealth services and temporarily lifting some Medicare telehealth rules. ([Interim Final Rule with Comment Period [CMS-1744-IFC]](https://www.cms.gov/files/document/covid-final-ifc.pdf), “Adding Services to the List of Medicare Telehealth Services”.) The Division of Workers’ Compensation has not previously adopted the Medicare list of codes that may be delivered by telehealth. In light of the public health emergency in California, it is determined that adopting the expanded emergency Medicare telehealth list as an additional telehealth code list during the period of the public health emergency will support the goal for residents to “stay at home” while increasing access to workers’ compensation medical treatment provided via telehealth.

CMS has also issued a temporary modification to the Medicare Physician Fee Schedule by suspending the Telehealth Place of Service Code 02. Instead, CMS specifies that physicians should use the Place of Service Code representing the POS code that would have been reported had the service been furnished in person. (See the [Interim Final Rule with Comment Period [CMS-1744-IFC]](https://www.cms.gov/files/document/covid-final-ifc.pdf), “Site of Service Differential for Medicare Telehealth Services.”)

### Order to Adjust Fee Schedule and Incorporation by Reference

Therefore, in order to further the use of telehealth while supporting the access to workers’ compensation medical treatment during the public health emergency, this Order adopts the following changes to the OMFS for Physician Services and Non-Physician Practitioner Services to conform to relevant Medicare changes:

Title 8, California Code of Regulations section 9789.12.2, subdivision (d)(2), is modified as follows:

|  |  |
| --- | --- |
| 02 Telehealth  The location where health services and health related services are provided or received, through a telecommunication system.  (Effective for services on or after March 1, 2017 and prior to April 15, 2020. For services on or after April 15, 2020, report the POS code that would have been reported had the service been furnished in person.) | F |

The Medicare excel document “[Covered Telehealth Services for PHE for the COVID-19 pandemic effective March 1, 2020](https://www.cms.gov/files/zip/covid-19-telehealth-services-phe.zip)” is adopted and incorporated by reference into Title 8, California Code of Regulations, section 9789.19, subdivision (g), for services on or after April 15, 2020. Section 9789.19, subdivision (g), is modified by adding a new row to the update table as follows:

|  |  |
| --- | --- |
| Telehealth – Services Accessible Through Telehealth (using audio and video telecommunication method) During the COVID-19 Public Health Emergency | For services on or after April 15, 2020:  CMS – “[Covered Telehealth Services for PHE for the COVID-19 pandemic, effective for services March 1, 2020](https://www.cms.gov/files/zip/covid-19-telehealth-services-phe.zip)”  In accord with CPT 2020, append modifier 95 to procedure code when delivered via telehealth. |

This Order and the updated regulations are effective for services rendered on or after April 15, 2020 and shall be published on the website of the Division of Workers’ Compensation on the [physician services and non-physician practitioner services fee schedule](https://www.dir.ca.gov/dwc/OMFS9904.htm#7) webpage.

**IT IS SO ORDERED.**

Dated: April 10, 2020 /S/ GEORGE P. PARISOTTO\_\_\_\_\_\_\_

GEORGE P. PARISOTTO

Administrative Director of the

Division of Workers’ Compensation