



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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COMMISSIONER OF INSURANCE

BULLETIN 2020-04

To: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc.,
and Health Maintenance Organizations

From: Gary D. Anderson, Commissioner of Insurance

Date: March 16, 2020

Re: Emergency Measures to Address and Stop the Spread of COVID-19 (Coronavirus)

The Division of Insurance (“Division”) issues this Bulletin to supplement and in some cases supersede the provisions of Bulletin 2020-02 (“*Addressing COVID-19 (Coronavirus) Testing and Treatment*”) to provide information to Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations (“Carriers”) about the Division’s expectations regarding steps Carriers are to take to address the spread of COVID-19, also known as Coronavirus.

On March 15, 2020, Governor Baker issued an “Order Expanding Access to Telehealth Services and to Protect Health Care Providers” (“Emergency Order”) that is effective as of March 16, 2020. This Bulletin provides guidance to Carriers and the Group Insurance Commission regarding how to implement this March 15 Emergency Order. It is intended to establish standards so that the cost of health care services to test, diagnose, and treat Coronavirus do not pose a barrier for Massachusetts residents. This Bulletin is also intended to expand the use of telehealth by in-network providers to treat medically necessary health conditions for all covered health services so that Carriers may help impede the transmission of Coronavirus by reducing the need for in-person treatment.

The Coronavirus Risk

The public health and societal impact resulting from the spread of the Coronavirus could dramatically impact the Commonwealth. It will be essential that government and business leaders take all appropriate steps to safeguard the general public and well-being of the Commonwealth’s citizens. Health insurance coverage plays a critical role in the public’s actual and perceived affordability of and access to health care services. Coronavirus may impose unique risks to our

insurance market that Massachusetts has not faced for at least a generation. Therefore, the Division is notifying Massachusetts Carriers that it expects them to take all necessary steps to enable their covered members to obtain medically necessary and appropriate testing and treatment that will help fight the spread of this disease.

Testing, Diagnosing, Counseling and Treating Coronavirus

As noted in Bulletin 2020-02, the Division expects Carriers to communicate prevention, testing, and treatment options to covered persons in accordance with guidelines from the Massachusetts Department of Public Health (DPH) and the Centers for Disease Control and Prevention (CDC), such as guidelines regarding how and when to contact your local board of health or health care provider. As this situation evolves, and informed by guidance from the DPH and CDC, the Division may issue further bulletins on this topic.

Please note that the Division modifies Bulletin 2020-02 regarding medically necessary Coronavirus treatment. Beyond what is noted in Bulletin 2020-02, the Division expects Carriers, during the duration of Governor Baker's Emergency Order, to do the following:

- When delivered via telehealth by in-network providers, forego any prior authorization requirements and any **cost-sharing (deductibles, coinsurance or copayments)** for medically necessary Coronavirus treatment in accordance with DPH and CDC guidelines.

The standards for medically necessary Coronavirus treatment not related to this telehealth Bulletin remain unchanged from what was stated in Bulletin 2020-02.

Expansion of Telehealth to Deliver Medically Necessary Health Services

In order to restrict face-to-face encounters to treat health conditions, the Division notifies all Carriers that it expects all Carriers to permit all in-network providers to deliver clinically appropriate, medically necessary covered health services via telehealth to covered members during the duration of Governor Baker's Emergency Order.

Services should be made available for all covered services provided by in-network providers that may be clinically appropriate to be provided through telehealth, including for example, medical doctor, behavioral health, and non-physician care which do not require in-person treatment of a patient. This Bulletin does not require any Carrier to cover services via telehealth unless they are covered on an in-person basis under the Carrier's health plans.

Appropriate Guidelines to Deliver Medically Necessary Health Services via Telehealth

As noted in Governor Baker's Emergency Order, Carriers may establish reasonable requirements for telehealth services, but they are not permitted to impose any specific requirements on the technologies used to deliver telehealth services (including any limitations on audio-only or live video technologies). To that end, and for the duration of Governor Baker's Emergency Order, Carriers will permit in-network providers to deliver clinically appropriate, medically necessary covered services to members via telehealth (including telephone and live video).

Providers must be willing to certify that they comply with all applicable state and federal statutes and regulations governing medication management and prescribing services when delivering these services via telehealth. If they are prescribing services via telehealth, providers must (1) maintain policies for providing patients with timely and accurate prescriptions by use of mail, phone, e-prescribing, and/or fax and (2) document prescriptions in the patient's medical record consistent with in-person care.

In accordance with the information within MassHealth All-Provider Bulletin 289, each Carrier should instruct its in-network providers to follow the following standards in order to deliver medically necessary care via telehealth:

- For an initial appointment with a new patient, the provider must review the patient's relevant medical history and any relevant medical records with the patient before initiating the delivery of any service;
- For existing provider-patient relationships, the provider must review the patient's medical history and any available medical records with the patient during the service;
- Prior to each patient appointment, the provider must ensure that the provider is able to deliver the services to the same standard as in-person care and in compliance with the provider's licensure regulations and requirements, programmatic regulations, and performance specifications related to the service (e.g., accessibility and communication access);
- If the provider cannot meet appropriate standard of care or other requirements for providing requested care via telehealth, then the provider must make this determination prior to the delivery of treatment, notify the patient of this, and advise the patient to instead seek appropriate in-person care;
- To the extent feasible, providers must ensure the same rights to confidentiality and security to a patient as provided in face-to-face services and must inform members of any relevant privacy considerations prior to providing services via telehealth;
- Providers must follow consent and patient information protocols consistent with those followed during in-person visits;
- Providers must inform patients of the location of the provider rendering services via telehealth (i.e., distant site) and obtain the location of the patient (i.e., originating site);
- Providers must inform the patient of how the patient can see a clinician in-person in the event of an emergency or otherwise.

Carriers are directed not to impose any prior authorization barriers to obtain medically necessary health services via telehealth that would not apply to receipt of those same services on an in-person basis. Carriers would continue to have the right to review the documentation of any claim, whether for in-person or via telehealth, including after the duration of Governor Baker's Emergency Order, to review the medical necessity of any services.

Reimbursement for Health Service Provided via Telehealth

Carriers should present clear communication materials to in-network providers to explain how to submit claims of reimbursement for services provided via telehealth. Carriers may require in-

network providers to follow the same claim submission documentation guidelines to explain the patient history, chief complaint, and exams for office and outpatient visits. Carriers may continue to evaluate specific CPT code documentation and review that the documented reason for the visit medically supports the extent of the exam, the discussion time noted, and the complexity of the visit and assessment. Carriers may require providers to present documentation of the substance of provider-patient encounter for the encounter to qualify for reimbursement. Carriers may review to determine that the claim is not billed at a higher E/M service code when a lower level of service is warranted.

For the duration of Governor Baker's Emergency Order, unless Carriers have specific agreements with a provider regarding reimbursement for services delivered via telehealth, Carriers must reimburse providers for services delivered via telehealth at least at the rate of reimbursement that the Carrier would reimburse for the same services when provided via in-person methods. Such reimbursement should not include any so-called facility fees for distant or originating sites.

For purposes of recording the number of health services that are being provided via telehealth, Carriers may request that providers include a specific telehealth code (place of service code or telehealth modifier) when providers submit claims for reimbursement. The collection of such code should not alter a provider's rate of reimbursement below any contractually agreed rate of reimbursement.

As Carriers implement changes to their systems to address these new reimbursement rules, they may need to pend initial bills until their systems are properly implemented, but Carriers are expected that reimbursements to providers are made consistent with the provisions of this Bulletin.

Carriers Acting As Administrators

Due to the public health crisis caused by Coronavirus, when Carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects Carriers to encourage plan sponsors to take steps that are consistent with the provisions of Bulletins 2020-02 and 2020-04. Plan sponsors should be made aware of the public health risks to all Massachusetts residents, and Carriers should do all they can to encourage plan sponsors to take steps to remove barriers to accessing medically necessary testing, diagnosis, counseling, and treatment of Coronavirus and to encourage the expanded use of telehealth for medically necessary health services in order to restrict person-to-person contacts that could lead to further spread of Coronavirus.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau, at (617) 521-7323.