

February 26, 2021 – 10:00 – 11:30
Joint MassHealth and Division of Insurance Information Sessions

Session #1 to Discuss Implementation of Telehealth Provisions within Chapter 260 of Acts of 2020

Proposed Discussion

- A. Carrier Communications with Members
- B. Carrier Contracts/Communications with Providers
- C. Telecommunication Technology Platforms

A. Carrier Communication with Members

SECTIONS 47, 49, 51 and 53.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

SECTION 61. Said section 6 of said chapter 176O, as so appearing, is hereby further amended by inserting after the word "provider", in line 34, the following words:- ; and (iii) a summary description of the insured's telehealth coverage and access to telehealth services, including, but not limited to, behavioral health services, chronic disease management and primary care services via telehealth, as well as the telecommunications technology available to access telehealth services.

SECTION 62. Section 23 of said chapter 176O, as so appearing, is hereby amended by inserting after the word "time", in line 3, the following words:- , the network status of an identified health care provider.

QUESTIONS

- How/when should carriers provide clear information to consumers about whether:
 - Deductibles apply to telehealth visits?
 - Copayments apply to telehealth visits?
 - Coinsurance applies to telehealth visits?
- How/when should present updated summary descriptions of telehealth coverage, including information that identifies that a patient may decline receiving services via telehealth in order receive in-person services, and what information should be included in the description?
- What should be reported regarding the "network status of a health care provider?"

B. Carrier Contracts/Communications with Providers

SECTIONS 47, 49, 51 and 53.

(b) A contract between a subscriber and a medical service corporation shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

QUESTIONS

- Should there be separate provider contracts or contract amendments for telehealth?
- If so, what should be in the contracts?
- When and how should contracts be introduced/expected to be signed?

B. Carrier Contracts/Communications with Providers

SECTIONS 47, 49, 51 and 53.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, , however, that the determination shall be made in the same manner as if the service was delivered in-person. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within or without the commonwealth shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

QUESTIONS

- How/when should utilization review/preauthorization standards be developed?
- How/when should utilizations review/preauthorization standards be communicated?
- How/when should utilization review/pre-authorization standards be implemented?

B. Carrier Contracts/Communications with Providers

SECTION 68. Notwithstanding any general or special law to the contrary, the group insurance commission under chapter 32A of the General Laws, the division of medical assistance under chapter 118E of the General Laws, insurance companies organized under chapter 175 of the General Laws, non-profit hospital service corporations organized under chapter 176A of the General Laws, medical service corporations organized under chapter 176B of the General Laws, health maintenance organizations organized under chapter 176G of the General Laws and preferred provider organizations organized under chapter 176I of the General Laws shall ensure that **rates of payment for in-network providers for telehealth services provided** pursuant to section 30 of said chapter 32A, section 79 of said chapter 118E, section 47MM of said chapter 175, section 38 of said chapter 176A, section 25 of said chapter 176B, section 33 of said chapter 176G and section 13 of said chapter 176I **are not less than the rate of payment for the same service delivered via in-person methods.**

SECTION 69. Notwithstanding any general or special law to the contrary, the group insurance commission under chapter 32A of the General Laws, the division of medical assistance under chapter 118E of the General Laws, insurance companies organized under chapter 175 of the General Laws, non-profit hospital service corporations organized under chapter 176A of the General Laws, medical service corporations organized under chapter 176B of the General Laws, health maintenance organizations organized under chapter 176G of the General Laws and preferred provider organizations organized under chapter 176I of the General Laws shall ensure that **the rate of payment for in-network providers of chronic disease management**, as defined in section 1 of chapter 176O of the General Laws, and **primary care services**, as defined in said section 1 of said chapter 176O, delivered via telehealth pursuant to section 30 of said chapter 32A, section 79 of said chapter 118E, section 47MM of said chapter 175, section 38 of said chapter 176A, section 25 of said chapter 176B, section 33 of said chapter 176G and section 13 of said chapter 176I **are not less than the rate of payment for the same service delivered via in-person methods.**

SECTION 76. Sections 63 and 69 are hereby repealed.

SECTION 77. Section 68 is hereby repealed.

SECTION 78. Section 76 shall take effect 2 years from the effective date of this act.

QUESTIONS

Different timelines apply to providers of behavioral health services, chronic disease management and primary care services as compared to other health care providers.

- What are reasonable considerations for addressing Section 77?
- What are reasonable considerations for addressing Section 78 which impacts Section 76?
- When should clear guidance about timelines and communications be available for members, providers and carriers?

C. Telecommunication Technology Platforms

SECTIONS 47, 49, 51 and 53.

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 61. Said section 6 of said chapter 176O, as so appearing, is hereby further amended by inserting after the word “provider”, in line 34, the following words:- ; and (iii) a summary description of the insured's telehealth coverage and access to telehealth services, including, but not limited to, behavioral health services, chronic disease management and primary care services via telehealth, as well as the telecommunications technology available to access telehealth services.

QUESTIONS

- Do any of the items in the definition of telehealth need to be clarified?
- What are the applicable federal and state health information privacy and security standards that should apply to telehealth services?
- Are there any guidance that need to clarify standards of care applicable to a telehealth provider's profession and specialty?
 - Can telehealth providers operate from any location with a Massachusetts license?
 - Are health care providers required to have a license in the location from which they are operating, as well as in Massachusetts?
 - Are Providers required to have a license in the location in which the member is located, if the member is not in Massachusetts?
- Are there concerns about how privacy and security standards may apply to any telehealth platform? Would this limit the use of certain telehealth platforms under specific circumstances?
- Are there any limitations on the use of any telehealth platforms?
- Can carriers facilitate the use of certain telehealth platforms?