

March 31, 2021 – 10:00 – 11:30

Session #3 to Discuss Implementation of Telehealth Provisions within Chapter 260 of Acts of 2020

Proposed Discussion about

Planned topics: (1) reimbursement and (2) billing

- A. What are the rules for reimbursement?
- B. How should providers bill for telehealth services?

A. What are the rules for reimbursement?

a. Interactive audio-video and other telehealth modalities

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:-

“Behavioral health services”, care and services for the evaluation, diagnosis, treatment or management of patients with mental health, developmental or substance use disorders.

“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.

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.

QUESTIONS

- What falls under “interactive audio-video technology”?
 - What characterizes interactive audio-video technology?
 - Is it required that the health care provider and the patient see/hear/talk to each other?
 - Are there exceptions?
- What should be considered regarding the differing rates of reimbursement for those services that are not interactive audio-video technology?
 - Can each type of the other telehealth services have differing rates of reimbursement?
 - Can there be different rates of reimbursement within a category, for example for different types of online adaptive interviews?

A. What are the rules for reimbursement?

b. Bundling

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:-

“Behavioral health services”, care and services for the evaluation, diagnosis, treatment or management of patients with mental health, developmental or substance use disorders.

“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.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

M.G.L. c. 6D, section 1:

"Global payment", a payment arrangement where spending targets are established for a comprehensive set of health care services for the care that a defined population of patients may receive in a specified period of time.

QUESTIONS

- Will there need to changes to existing global payment arrangements to account for telehealth?

A. What are the rules for reimbursement?

c. Behavioral health

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:-

“Behavioral health services”, care and services for the evaluation, diagnosis, treatment or management of patients with mental health, developmental or substance use disorders.

“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.

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.

(g) Insurance companies organized under this chapter shall ensure that the rate of payment for in-network providers of behavioral health services delivered via interactive audio-video technology and audio-only telephone shall be no less than the rate of payment for the same behavioral health service delivered via in-person methods; provided, that this subsection shall apply to providers of behavioral health services covered as required under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

QUESTIONS

- It appears that there are not any provisions that limit the time that this section of the law is in effect. Is there anyone that has a different reading of these sections?
- Within subsection (d), it is noted that “[t]he 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.” In subsection (g), it is noted that “behavioral health services delivered via interactive audio-visual technology **and audio telephone** (emphasis added) shall not be less than the rate of payment for the same behavioral health service delivered via in-person methods.”
 - It appears that the statute makes a special rule for behavioral health such that services provided via audio-visual technology and audio telephone will be reimbursed at the same level as for an in-person visit, while for non-behavioral health services only audio-visual technology is required to be reimbursed at the same level as for an in-network visit. Is there anyone with a different reading of this section?
- The statute applies to in-network providers within those health plans that are regulated under M.G.L. c. 32A, 118E, 175, 176A, 176B, 176G and 176I.
 - If a carrier permits out-of-network health care practitioners to provide services via telehealth, should there be any guidance on their reimbursement?
 - Can different reimbursement rules apply to out-of-network health care practitioners?
 - Can different rules apply to different types of out-of-network behavioral health providers?

A. What are the rules for reimbursement?

d. Chronic Disease Management and Primary Care Services

SECTIONS 47, 49, 51 and 53.

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

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote forthwith a resilient health care system that puts patients first, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Approved January 1, 2021.

QUESTIONS

- It appears that the statute had an emergency amble making the law effective when enacted and that the approval date was January 1, 2021. This would appear to mean that section 76 repeals section 69 on January 1, 2023 and that provisions of section 69 are in effect only through December 31, 2022. Is there anyone that has a different reading of these sections?
- Within subsection (d), it is noted that “[t]he 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.” In Section 69, it is noted that “services delivered via telehealth shall not be less than the rate of payment for the same behavioral health service delivered via in-person methods.”
 - It appears that the statute does not have the same language included in the section for behavioral health and that only audio-visual technology will be reimbursed at the same level as for an in-person visit, while for non-behavioral health services only audio-visual

technology is required to be reimbursed at the same level as for an in-network visit. Is there anyone with a different reading of this section?

- The statute applies to in-network providers within those health plans that are regulated under M.G.L. c. 32A, 118E, 175, 176A, 176B, 176G and 176I.
 - If a carrier permits out-of-network health care practitioners to provide services via telehealth, should there be any guidance on their reimbursement?
 - Can different reimbursement rules apply to out-of-network health care practitioners?
 - Can different rules apply to different types of out-of-network behavioral health providers?

A. What are the rules for reimbursement?

e. All Other Services

SECTIONS 47, 49, 51 and 53.

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 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 77. **Section 68 is hereby repealed.**

SECTION 79. **Section 77 shall take effect 90 days after termination of the governor's March 10, 2020 declaration of a state of emergency.**

QUESTIONS

- It appears section 77 repeals section 68 on the 90th day after termination of the Governor's March 10, 2020 declaration of a state of emergency. Is there anyone that has a different reading of these sections?
- Within subsection (d), it is noted that "[t]he 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." In Section 69, it is noted that "services delivered via telehealth shall not be less than the rate of payment for the same behavioral health service delivered via in-person methods."
 - It appears that the statute does not have the same language included in the section for behavioral health and that only audio-visual technology will be reimbursed at the same level as for an in-person visit. Non-behavioral health using audio-visual technology could be reimbursed at a lower level. Is there anyone with a different reading of this section?
- The statute applies to in-network providers within those health plans that are regulated under M.G.L. c. 32A, 118E, 175, 176A, 176B, 176G and 176I.
 - If a carrier permits out-of-network health care practitioners to provide services via telehealth, should there be any guidance on their reimbursement?
 - Can different reimbursement rules apply to out-of-network health care practitioners?
 - Can different rules apply to different types of out-of-network behavioral health providers?

B. Billing

In Bulletin 2020-04, the Division wrote the following:

Reimbursement for Health Service Provided via Telehealth

For the duration of Governor Baker's Executive 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.

When submitting claims for reimbursement, Carriers may request that providers include a code that signifies that the service is being provided via telehealth for purpose of tracking the number of health services that are being provided via telehealth. The collection of such code should not alter a provider's rate of reimbursement below any contractually agreed rate of reimbursement.

QUESTIONS

- Should the same guidance continue for the purpose of tracking telehealth visits
- Are there other ways that carriers should use to track the number of services being provided via telehealth?
- Are there codes that could be used to distinguish among the different types of telehealth?
 - Should there be separate codes for audio-visual technology than for all other types of telehealth?
 - Should there be separate codes for each type of telehealth?

BA. Billing

The following are codes in the CPT:

98966

Telephone assessment and management service provided by a qualified nonphysician health care professional to an established patient, parent, or guardian not originating from a related assessment and management service provided within the previous 7 days nor leading to an assessment and management service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion.

98967

Telephone assessment and management service provided by a qualified nonphysician health care professional to an established patient, parent, or guardian not originating from a related assessment and management service provided within the previous 7 days nor leading to an assessment and management service or procedure within the next 24 hours or soonest available appointment; 11-20 minutes of medical discussion.

98968

Telephone assessment and management service provided by a qualified nonphysician health care professional to an established patient, parent, or guardian not originating from a related assessment and management service provided within the previous 7 days nor leading to an assessment and management service or procedure within the next 24 hours or soonest available appointment; 21-30 minutes of medical discussion.

99441

Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion.

99442

Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 11-20 minutes of medical discussion.

99443

Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 21-30 minutes of medical discussion.

QUESTIONS

- Are these the right CPT codes to use for services provided via telehealth?
- Are there different codes that should be used?