

### 3.13.2020 REDC Policy Update

Hi REDC Members,

Given the global pandemic, this weekly policy update will focus on what action is being taken within Congress to address this public health crisis. Additionally, we have learned there are significant gaps in coverage for telehealth for REDC members and we have had discussions with the American Psychological Association, the American Psychiatric Association and the Medical Group Management Association to decipher the best course of action to take.

Below there is a brief summary regarding telehealth coverage under commercial plans, followed by a timeline of the actions Congress has taken to address this crisis.

#### **Telehealth & Commercial Coverage**

- Only 10 states offer true payment parity laws for reimbursement rates for in-person and telehealth services: AR, DE, GA, HI, KY, MN, MO, NM, UT and VA.
- Since telehealth coverage is really dictated on a state-by-state basis as each state has different licensing requirements, etc., the American Psychological Association is working with their state chapters to draft letters to the governor or state insurance commissioner to request access to telehealth for the full range of services.
  - APA is not far along enough in the process to have a sense of what large insurers are balking at the idea now.
- **Next Steps with REDC:** *We are working with REDC leadership to determine the best path forward to address the telehealth coverage and reimbursement issue, but any efforts will be focused at the state level as legally this can not be tackled by trying to slip a provision in within a supplemental package.*

#### **March 6**

- Congress signed *Coronavirus Preparedness and Response Supplemental Appropriations Act*
  - This gave authority to HHS Secretary Azar to dismiss any telehealth restrictions for Medicare beneficiaries.
  - The intention for the law was to create a pathway for some seniors to receive care during COVID-19.
    - The provision advocates called for would have given Azar authority to waive Medicare reimbursement restrictions on telehealth for all national and public health emergencies, but the provision was changed to narrowly apply to this specific pandemic.
    - A letter from health care providers, telehealth leaders and other stakeholders to House and Senate leadership requested clarity that all reimbursement restrictions would be waived for all medical conditions during the public health emergency, not just those associated with treatment for COVID-19 patients.
    - Additionally, the letter requested changes to the guardrails that require the clinician to have billed the patient with the past three years, which would require burdensome and time intensive claims data review to determine eligibility for payment. Also, if the patient was billed by the provider, but is

under commercial review, care for that patient would NOT be eligible for Medicare reimbursement.

- The Centers for Medicare and Medicaid Services (CMS) did provide fact sheets regarding COVID-19 and coverage for the individual and small group markets, but really passed the buck on telehealth coverage: <https://www.cms.gov/files/document/03052020-individual-small-market-covid-19-fact-sheet.pdf>

### **March 13**

- The House is on track to pass the *Families First Coronavirus Response Act* tonight; however much of the package is still under intense negotiations with the White House.
  - Once the package is cleared by the House, it will move to the Senate and they will consider its passage next week.
  - Although the package is still under negotiation, an initial summary of the legislation can be found here: <https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Families%20First%20summary.pdf>.
  - This package mainly deals with worker protections, nutrition programs, and clarity on coverage around COVID-19 specific testing/devices coverage.

### **In the coming weeks**

- There will be a third supplemental package coming down the pike; however, what provisions will be included in the third supplemental is really still up in the air.
- Regardless, the telehealth coverage and reimbursement on the commercial insurer side will remain a state issue.

Best,  
Allison, Katrina and Luke

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