



Health Insurance Bulletin 2020-01

Issued March 20, 2020

Effective Immediately

Emergency Telemedicine Measures to Address and Stop the Spread of COVID-19

The Office of the Health Insurance Commissioner ("OHIC") issues this Bulletin to supplement the *Rhode Island Office of the Health Insurance Commissioner and Medicaid Program Instructions During the COVID-19 State of Emergency* issued March 13, 2020 and to provide information to Commercial Health Insurers ("Carriers") about the OHIC's expectations regarding steps Carriers are to take to address the spread of COVID-19, also known as Coronavirus. Herein the term "telemedicine" is used interchangeable with the term "telehealth."

On March 18, 2020, Governor Raimondo issued a "Fourth Supplemental Emergency Declaration—Expanding Access to Telemedicine Services" ("Executive Order"), effective as of March 18, 2020. The Executive Order directed OHIC to issue guidance on the implementation of the Executive Order.

This Bulletin provides guidance to Carriers regarding how to implement the March 18 Executive Order. This Bulletin is intended to expand the scope and use of clinically appropriate telemedicine by in-network providers to treat medically necessary health conditions for all covered health services so that Carriers may help impede the transmission of COVID-19 by reducing the need for in-person treatment as well as to ensure that providers are able to continue to provide medically necessary care during the course of this public health emergency.

Expansion of Telemedicine to Deliver Medically Necessary Health Services

In order to restrict in-person encounters to treat health conditions, including behavioral health conditions, to enable patients and/or providers to respectively obtain and provide clinically appropriate, medically necessary care, and to better ensure access and continuity of care in the event of potential provider availability limitations, OHIC hereby notifies all Carriers that, for the duration of Governor Raimondo's Executive Order, the following requirements shall dictate the scope and form of telemedicine coverage and reimbursement policies:

1. This Bulletin does not require any Carrier to cover services via telemedicine unless such services are covered under the Carrier's health benefit plans.
2. Carriers shall permit all in-network providers to deliver clinically appropriate, medically necessary covered health services via telemedicine to covered members. This includes providers traditionally excluded from telemedicine coverage policies; for example, providers offering occupational therapy, physical therapy, and speech



- and language pathology, as appropriate.
3. Carrier determinations of the clinical appropriateness of telemedicine services shall be made taking into consideration all relevant factors relating to the immediate and critical need to fight the spread of this disease, including protecting providers and patients from infection risks and ensuring adequate access and continuity of care. If it becomes necessary, OHIC will issue further guidance on clinical appropriateness with regards to telemedicine.
 4. Carriers shall not create or enforce any telemedicine coverage requirements or limitations based on the site at which either the patient or health care provider is located at the time that health care services are delivered by means of telemedicine.
 5. Carriers shall not impose or enforce telemedicine coverage requirements or limitations based solely on patient health status or diagnosis(es).
 6. Carriers shall establish reasonable requirements for clinically appropriate telemedicine services, but they are not permitted to impose any specific requirements on the types of technologies used to deliver telemedicine services (including any limitations on audio-only or live video technologies), except that Carriers may deem some services not clinically appropriate to deliver through means of an audio-only system. Telemedicine services must include a real-time interaction and cannot be solely in writing such as through email or text messaging. Services must be rendered by a licensed provider capable of billing for such services. Carriers shall liberally apply guidance from the Office of Civil Rights in the United States Department of Health and Human Services, dated March 17, 2020, regarding the temporary waiver of penalties for Health Insurance Portability and Accountability Act (HIPAA) violations against health care providers who serve patients through everyday communication technologies during the COVID-19 emergency, to deliver synchronous audio-visual services to ensure that more common methods are employable in the delivery of telemedicine services. Providers are encouraged to ensure appropriate privacy and security is in place during these interactions.
 7. In accordance with the *Rhode Island Office of the Health Insurance Commissioner and Medicaid Program Instructions During the COVID-19 State of Emergency* issued March 13, 2020 telephonic triage calls coded using CPT codes 99211 or 99212 (or equivalent) with a code modifier shall not be subject to cost sharing.

Reimbursement for Health Service Provided via Telemedicine

Carriers should present clear communication materials to in-network providers to explain how to submit claims of reimbursement for services provided via telemedicine. OHIC may define form and format of communication that is to be submitted to OHIC for the use of a standard summary to provide uniformity of information to providers. Carriers may require in-network providers to follow the same claim submission guidelines. Carriers may continue to evaluate documentation and review that the documented reason for the visit medically supports the time 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. In order to provide access to care for new and established patients and in order to account for the limitations of the exam component of the encounter, carriers shall allow code selection to be time based reporting, whether or not counseling and coordination of care dominate the service, or to be based upon the level of medical decision making.

It is in the interest of the public for Rhode Island participating providers to develop internal telemedicine capacity and for Carriers to bolster the ability of Rhode Island providers to conduct services through telemedicine. Carriers with specific agreements with a telemedicine vendor group regarding reimbursement for services delivered via telemedicine may continue those agreements. Carriers shall not require participating providers to enter those agreements as a condition of participation in telemedicine. Carriers shall reimburse in-network participating providers for services delivered via telemedicine 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 telemedicine 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.

This Bulletin issued pursuant to Governor Raimondo's March 18, 2020, Executive Order 20-06, shall remain in full force and effect until Monday, April 17, 2020, unless Executive Order 20-06 is renewed, modified or terminated by subsequent Executive Order resulting in a longer or shorter full force and effect period.

Dated at Cranston, Rhode Island this 20th day of March 2020.



Marie Ganim, PhD., Commissioner