



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



***Rhode Island Office of the Health Insurance Commissioner & Medicaid Program
Instructions During the COVID-19 State of Emergency***

March 13, 2020

On March 9, 2020 Governor Gina M. Raimondo issued a declaration of a State of Emergency relevant to COVID-19. The Office of the Health Insurance Commissioner (OHIC) and the Rhode Island Medicaid Program (where applicable) are notifying health insurers issuing policies in Rhode Island to take the following timely measures related to the potential impact of COVID-19. The primary goal of these instructions is to ensure access and continuity of care in light of this public health crisis and to reduce the transmission of the virus in the state of Rhode Island. These Instructions shall remain in effect until the State of Emergency related to COVID-19 in Rhode Island has been lifted.

Instructions:

- 1) Update telemedicine policies to include telephone-only services within the definition of telemedicine for primary care and behavioral health providers. Telephone-only primary care and behavioral health services coded using CPT codes 99211 or 99212 (or equivalent) with a code modifier shall not be subject to cost sharing. This instruction supports guidance from the Centers for Disease Control (CDC) and the Rhode Island Department of Health (RIDOH) to have patients call their health care providers before seeking in-person care.
- 2) Require that plan-contracted out of state telemedicine providers follow CDC and RIDOH instructions in connection with services provided to Rhode Island residents related to COVID-19.
- 3) Ensure coverage of COVID-19 testing and screening consistent with CDC guidelines (including test administration and analysis) without prior authorization and without patient cost-sharing. Please note: The IRS issued a notice [Notice 2020-15] stating that first-dollar coverage of COVID-19 testing will NOT make a High-Deductible Health Plan (HDHP) ineligible under the HSA rules.
- 4) The CDC and American Red Cross have general guidance for disaster preparedness that households should maintain at least a 30-day supply of any prescription drugs used by household members. This will allow people to shelter in place, while ensuring that they have adequate supplies on hand for continuity of care and medication compliance. Health insurers shall ensure coverage for advance prescription refills and medical supplies to enable enrollees to maintain at least a 30-day supply during this outbreak. To the extent consistent with clinical guidelines, and in a manner prudently calculated to ensure an enrollee's ability to maintain at least a 30-day or 90-day (for maintenance medications) supply at home, OHIC and Medicaid instruct health insurers to cover enrollees for prescription drug refills even when the enrollee has not yet reached their scheduled refill date, provided that the prescription itself would remain valid beyond the refill date.
- 5) Consider and reasonably remove and/or reduce barriers to access to services related to COVID-19 that may delay or impede necessary care, including requirements for specialist referrals and prior authorizations, during the state of emergency.



- 6) In the event a federally-approved vaccine becomes available for COVID-19, cover the cost of the immunization with no cost sharing for all covered enrollees.
- 7) Maintain a plan to address consumer access to care and services; including monitoring the supply chain for prescription drugs and medical supplies and maintain contingencies to ensure the continuity and quality of care for patients. Also consider streamlined access to necessary off-formulary prescription drugs if supply chain interruptions or shortages result in there being no formulary drug available to treat the insured.
- 8) Continually assess provider network adequacy to ensure adequate access to care given expected increases in the need for health care services for COVID-19 cases. If a health insurer does not have a health care provider in its network with the appropriate training and experience to meet the particular health care needs of an insured, health insurers should provide timely access to an out-of-network provider at in-network cost-sharing.
- 9) Health insurers shall comply with the requirements of RI Gen. Laws § 27-18-76 regarding emergency services including out of network emergent care.
- 10) Continue to review internal processes and operations to ensure preparedness to address any significant growth in COVID-19 cases in Rhode Island, including providing subscribers with timely access to all medically necessary covered health care services, including services that may be provided in alternative facilities or sites of care to the extent that hospitals and other traditional provider settings or facilities are at capacity. Strategies for ensuring access and continuity of care should also include consideration for telephonic services and telemedicine services without patient cost sharing should access to provider office visits become limited due to the spread of COVID-19; expedited formulary exception; and temporary use of out-of-network pharmacy in response to prescription drug access issues.
- 11) Communicate COVID-19 state of emergency policy changes—including any necessary code(s) for reimbursement—with provider networks.
- 12) Provide timely information to OHIC and Rhode Island Medicaid (where applicable) on the steps being taken in response to the above instructions.

As the COVID-19 situation continues to evolve, health insurers should continually assess their readiness, plan for network adequacy challenges, and make any necessary adjustments, and keep their providers and subscribers informed. We appreciate the work that all of you are engaged in to prepare and respond to this outbreak.



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State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-06

March 18, 2020

FOURTH SUPPLEMENTAL EMERGENCY DECLARATION - EXPANDING ACCESS TO TELEMEDICINE SERVICES

This Emergency Declaration supplements Executive Order 20-02 issued March 9, 2020.

WHEREAS, on March 9, 2020, I declared a state of emergency due to the dangers to health and life posed by COVID-19;

WHEREAS, the number of presumptive and confirmed cases of COVID-19 continues to rise in Rhode Island as well as in our neighboring states;

WHEREAS, on March 13, 2020, the Rhode Island Office of the Health Insurance Commissioner (OHIC) and Medicaid notified health insurers issuing policies in Rhode Island that they must take timely measures to ensure access and continuity of healthcare services, including the expansion of telemedicine services;

WHEREAS, as of March 16, 2020, the Department of Health confirmed the community transmission of COVID-19 in Rhode Island, a development that significantly increases the likelihood of widespread transmission in the state;

WHEREAS, low-cost telephone and other internet-based audio-only and live video technologies are widely available and accessible to health care providers and patients. These

technologies can enable the provision of health care services, including behavioral health care services, in a manner that will limit the transmission of COVID-19 to health care providers and patients while providing clinically appropriate, medically necessary health care services to those quarantined or practicing social distancing;

WHEREAS, insurance carriers do not always fully reimburse health care providers for telemedicine services;

WHEREAS, insurance carriers do not always provide coverage for the full range of telemedicine services;

WHEREAS, access to telemedicine services is particularly important during the COVID-19 outbreak so that health care professionals can continue to treat patients while in quarantine or to limit exposure as a preventive measure; and

WHEREAS, in order to protect public health and mitigate exposure to and the spread of COVID-19, it is essential to facilitate the delivery of telemedicine services as a convenient, easily accessible, and affordable option to both health care providers and patients.

WHEREAS, recent Medicare program guidance has been issued by the federal government to remove barriers to telemedicine/telehealth services during this crisis, and reasonable consistency among insurance plans is necessary to ensure health service access and continuity of care for patients and providers.

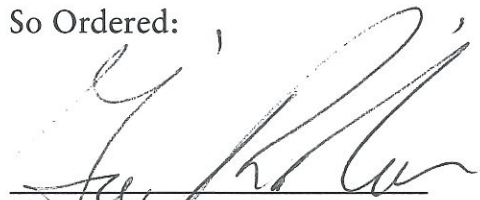
NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby order and direct the following:

1. The patient location requirement for telemedicine contained in Rhode Island General Laws § 27-81-3(9) is hereby suspended. Patients may receive telemedicine services at any location.
2. The prohibition against audio-only telephone conversation and the limitations on video conferencing contained in Rhode Island General Laws § 27-81-3(12) are hereby suspended to expand the availability of telemedicine.
3. Rhode Island General Laws § 27-81-4(b) is hereby suspended to the extent that it allows agreements between health care providers and insurance carriers that limit either the scope of covered telemedicine services or the reimbursement of those services. All such clinically appropriate, medically necessary telemedicine services delivered by in-network providers shall be reimbursed at rates not lower than services delivered through traditional (in-person) methods.

4. Insurance carriers shall establish reasonable requirements for the coverage of such telemedicine services, in accordance with guidance issued by OHIC, including with respect to documentation and recordkeeping, but may not impose any requirements more restrictive than those contained in *The Rhode Island Office of Health Insurance Commissioner and Medicaid Program Instructions During the COVID-19 State of Emergency* issued March 13, 2020 and the Telehealth Benefits for Medicare beneficiaries. No insurance carrier shall impose any specific requirements on the technologies used to deliver telemedicine services (including any limitations on audio-only or live video technologies).
5. OHIC is hereby directed to issue guidance on the implementation of this Order.

This Order shall take effect on Wednesday, March 18, 2020 and shall remain in full force and effect until Monday, April 17, 2020, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

A handwritten signature in dark ink, appearing to read 'Gina M. Raimondo', is written over a horizontal line.

Gina M. Raimondo
Governor