Regulation of Telehealth and Audio-Only Telephone Services

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VERMONT
DEPARTMENT OF FINANCIAL REGULATION

Regulation of Telemedicine Services

- Under 8 V.S.A. § 4100k, commercial health insurance plans in Vermont are required to provide coverage for medically necessary and clinically appropriate health care services and dental services delivered through telemedicine;
- "Telemedicine" is defined as the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Permits health insurers to
    - charge a deductible, co-payment, or coinsurance for telemedicine services;
    - limit coverage to in-network providers and conduct utilization management;
- Requires health insurers to provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, for telemedicine and in-person services.

Regulation of “Store and Forward” Services

- ”Store and Forward” is defined as asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of HIPAA;

- Under 8 V.S.A. § 4100k, health insurers are required to reimburse for health care services and dental services delivered by store-and-forward means;

- Health insurers may not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means.

Requirements for Providers

Under 18 V.S.A. § 9361, providers may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient in person, through telemedicine, or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically;

Providers must obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient;

Patients receiving telemedicine services must be advised of their rights right to refuse to receive telemedicine services and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit;

Providers may not create or cause to be created a recording of a provider's telemedicine consultation with a patient;

Regulation of Audio-Only Telephone Services

Act 6 of 2021 added 8 V.S.A. § 4100l, which requires health insurers to provide coverage for all medically necessary, clinically appropriate health care services delivered by audio-only telephone to the same extent that the plan would cover the services if they were provided through in-person consultation.

- Health insurers may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered by audio-only telephone;
- Health insurers may not require a health care provider to have an existing relationship with a patient in order to be reimbursed for health care services delivered by audio-only telephone.

DFR Audio-Only Telephone Order

Act 6 of 2021 requires the Department, working in consultation with DVHA and the GMCB to determine reimbursement for audio-only telephone services.

- The Department solicited proposals from interested parties as to coding and reimbursement for audio-only telephone services;
- The Department received proposals from DVHA, Cigna, MVP Health Care, Blue Cross Blue Shield of Vermont, and the Coalition of Health Care Associations.

On June 29, 2021, the Department ordered that beginning January 1, 2022:

- Health insurers provide reimbursement for audio-only telephone services billed using accepted CPT language and definitions including both CPT codes for in-person services and telephone-specific E/M codes and a V3 or V4 modifier;
- Reimburse for audio-only telephone services at a rate no less than 75% of the rate for equivalent in-person or audio/visual telemedicine covered service.

Requirements for Providers

Under 18 V.S.A. § 9362, providers may may deliver health care services to a patient using audio-only telephone if the patient elects to receive the services in this manner and it is clinically appropriate to do so.

- Providers must comply with any training requirements imposed by the provider's licensing board on the appropriate use of audio-only telephone in health care delivery;
- Providers must also document in the patient's record:
    - The patient's informed consent for receiving services using audio-only telephone;
    - The reason that the provider determined that it was clinically appropriate to deliver health care services to the patient by audio-only telephone;
- Patients receiving audio-only telephone services must be advised of their rights right to refuse to receive audio-only telephone services and to request services in an alternative format;
- Providers may not create or cause to be created a recording of a provider's audio-only telephone consultation with a patient;
- Audio-only telephone services cannot be used for:
    - The second certification of an emergency examination determining whether an individual is a person in need of psychiatric treatment;
    - a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization.