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HEALTH LAW
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COVID-19: Medicaid Telehealth Expansion and Guidance

FAs a companion piece to the earlier released "Medicare Telehealth Guidance," the Centers for Medicare and Medicaid Services ("CMS") today released Medicaid Telehealth Guidance to states. You can find a copy of the guidance at https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-telehealth-services.pdf.

CMS has released the guidance below to help states understand their options for paying Medicaid providers that use telehealth technology to deliver services in order to combat the COVID-19 pandemic and to increase access to care. A summary of CMS's guidance is set forth below:

- States are not required to submit a state plan amendment ("SPA") to pay for telehealth services if payments for services furnished via telehealth are made in the same manner as when the service is furnished in a face-to-face setting;

- However, a state would need an approved state plan payment methodology (and thus, might need to submit an SPA) to establish rates or payment methodologies for telehealth services that differ from those rates or payment methodologies applicable for the same services furnished in a face-to-face setting;

- States may pay a qualified physician or other licensed practitioner at the distant site (the billing provider) and the state's payment methodology may include costs associated with the time and resources spent facilitating care at the originating site (where the patient is). The billing provider may distribute the payment to the distant and originating sites;

- States may also pay for appropriate ancillary costs, such as technical support, transmission charges, and equipment necessary for the delivery of telehealth services. A state would need an approved state plan payment methodology that specifies the ancillary costs and circumstances when those costs are payable;

- Ancillary costs associated with the originating site for telehealth may be incorporated into the fee-for-service rates or separately reimbursed as an administrative cost by the state when a Medicaid service is delivered. The ancillary costs must be directly related to a covered Medicaid service provided via telehealth and properly allocated to the Medicaid program; and

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- States are encouraged to reach out to their state lead as soon as possible if they are interested in submitting an SPA.

In addition, CMS's guidance includes sample SPA language that CMS has previously approved with respect to telehealth service expansion and payment methodologies.

Questions or Assistance

If you have any questions about this alert, please contact any member of our Health Law Practice Group listed on page 1.