CLIENT ALERTS & INSIGHTS

Benesch COVID-19 Resource Center: Governor DeWine and Ohio Department of Medicaid Announce Multiple Administrative Measures to Increase Access to Healthcare During the COVID-19 Emergency

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Governor Mike DeWine and the Ohio Department of Medicaid ("ODM") have announced multiple measures intended to increase access to healthcare for Ohioans, reduce administrative requirements for physicians and other healthcare providers in an effort to meet increased patient care demands, and enhance the use of technology in response to the COVID-19 emergency. Certain temporary changes are already in effect while others are pending review and approval by the Centers for Medicare and Medicaid Services ("CMS").

ODM and Medicaid Managed Care Emergency Measures

Following Governor DeWine's executive order declaring a state of emergency, ODM, Ohio's Medicaid managed care plans ("MCPs"), and MyCare Ohio plans ("MCOs") have implemented various emergency measures intended to meet the increased need for healthcare services in response to the spread of COVID-19. These changes were highlighted by Governor DeWine's office on April 10, 2020; however, certain changes were put in place, or made effective, as early as March 9, 2020 (the date Governor DeWine declared a state of emergency as a result of COVID-19).

- Pharmacy Benefits. ODM, the MCPs, and the MCOs have made the following emergency provider agreement changes for pharmacy benefits, which apply to ODM fee-for-service providers and managed care providers alike:

  - Medicaid beneficiaries may receive new prescriptions and bypass the prior authorization requirement on certain outpatient medications (with limited exceptions).

  - Medicaid beneficiaries may use a pharmacy for benefits purposes even if it is out-of-network.

  - Medication refill thresholds have been relaxed.

  - Pharmacies may seek reimbursement for emergency medication refills.

- Pharmacies may seek reimbursement for dispensing over-the-counter medications without a prescription (not to exceed a 30-day supply).

- Co-pays have been waived whether or not the medication or device is used in connection with treatment for COVID-19.

- Certain maintenance medications can be authorized for a 90-day supply.

- Timely Filing of Claims. The MCPs and MCOs have extended the time period to 365 calendar days from the date of service for providers to comply with requirements for "timely filing of claims." This applies to all managed care provider types.
- Prior Authorization Requirements. The MCPs have relaxed prior authorization requirements.

  - The MCPs have deferred medical necessity determinations to healthcare providers. Providers may continue to submit prior authorization requests in the ordinary course, or may seek expedited administrative authorization through the applicable MCP. However, managed care providers temporarily have the option to bypass either method and receive payment without obtaining prior authorization. While all MCP systems were scheduled to be updated by April 20, 2020, to allow payment without prior authorization, providers are expected to work with the MCPs to resolve inappropriately denied claims.

  - Private duty nursing requests, including requests for additional hours, will be allowed as requested without prior authorization for 90 calendar days. The MCPs will pay for up to a 90-day supply of DME without prior authorization.

  - All existing prior authorizations will be extended for 6 months from the renewal or expiration date. The MCPs will honor any previously approved prior authorization for a treatment, procedure, or service for up to 6 months from when the treatment, procedure, or service was postponed.

  - Despite the foregoing, prior authorization is still required for the following:

    * Pain pumps

    * Transplants

    * Cosmetic procedures

    * Use of miscellaneous codes

    * Home health services after two weeks of service

* Elective surgical and dental procedures

* Investigational devices and procedures

* Mobility device exceeding $5,600.00

- Telehealth services. Two emergency rules have been effectuated related to telehealth services. ODM's emergency rule (OAC 5160-1-21) and the Ohio Department of Mental Health and Addiction Services ("OhioMHAS") emergency rule (OAC 5122-29-31) collectively enhance access to a wide range of medical and behavioral health services. The ODM emergency rule applies only to Medicaid beneficiaries whereas the OhioMHAS emergency rule covers all OhioMHAS-certified community behavioral health providers. ODM has published guidance that explains available health services as a result of this rule package.
- Coordinated Discharge Planning. The MCPs and MCOs are empowered to assist hospitals with discharge planning through the use of case managers to ensure minimal disruption in services and care for members in the outpatient setting. Inpatient facilities must notify the applicable MCPs or MCOs of all member admissions for proper preparation and planning.

CMS 1135 Waiver

In addition to the foregoing, on April 14, 2020, Governor DeWine and ODM submitted an 1135 waiver application (the "Waiver Application") to CMS. Section 1135 of the Social Security Act allows the Secretary of the U.S. Department of Health and Human Services (the "Secretary") to take certain actions in addition to his or her standard authority during a declared state of emergency. For example, the Secretary can temporarily suspend, relax, or modify Medicare and Medicaid conditions of participation, HIPAA rules and requirements, and Stark Law self-referral sanctions pursuant to such authority. Individual states have the ability to apply for such waivers by submitting an application to CMS.

If approved, the Waiver Application will grant the State of Ohio and ODM additional flexibility to respond to the COVID-19 emergency during the entirety of the declared state of emergency. Benesch Healthcare+ will publish further details related to the Waiver Application following CMS approval.

The State of Ohio's response to the COVID-19 emergency continues to evolve rapidly across multiple state agencies and government entities. For more information regarding the information above, please contact a member of the Benesch Healthcare+ Practice Group. Also, consult the Benesch COVID-19 Resource Center for sources and additional information regarding COVID-19.

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Benesch stands ready to assist with any questions as we closely follow COVID-19 developments and support client's response efforts.

Please note that this information is current as of the date of this client bulletin, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by CDC and local officials.

