



MassHealth implements telehealth benefit for behavioral health

By: Jeremy D. Sherer and Ryan J. Cuthbertson © April 11, 2019



Earlier this year, MassHealth, the Massachusetts Medicaid program, announced that it would begin reimbursing claims for behavioral health services provided to MassHealth beneficiaries via telehealth.

While the vast majority of state Medicaid programs cover services delivered via telehealth, MassHealth previously did not.

This article provides an overview of MassHealth All Provider Bulletin 281, which sets forth the standards for providers delivering behavioral health services to MassHealth beneficiaries via telehealth.

Background on telehealth

Telehealth is not a unique medical discipline but rather a way to deliver professional clinical services to patients from a remote location. As the practice of medicine as a whole is regulated on a state-by-state basis, telehealth laws, regulations and standards also vary state by state.

Moreover, even within a state, different rules apply depending on the type of insurer reimbursing claims (if any) — e.g., Medicare, Medicaid or a private insurer. Though the Medicare program historically has been quite restrictive regarding the services that it will cover when provided via telehealth, many state Medicaid programs have long covered services provided via telehealth, and commercial payers have become increasingly open to covering such services.

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Reimbursement standards aside, there are also practice rules and guidelines established by most state medical boards that need to be considered when providing services via telehealth.

Despite its status as a leader in health care policy, Massachusetts remains one of the few states in the nation lacking meaningful telehealth regulations. In consecutive years, lawmakers have failed to pass legislation that would create such regulations.

Though Gov. Charlie Baker has identified telemedicine as a priority for Massachusetts lawmakers, the future remains to be seen regarding the promulgation of telemedicine standards in Massachusetts.

MassHealth-approved telehealth modalities

Historically, the “gold standard” of telehealth communication has been a synchronous, interactive, two-way, audio-video interaction between the provider and the patient. This essentially means a version of Skype or FaceTime that complies with applicable legal requirements.

Increasingly, states across the country, and even the Centers for Medicare & Medicaid Services, are expanding definitions of telehealth to include other communications, such as remote patient monitoring and store-and-forward technology.

However, MassHealth specifically limits the services that it will reimburse to “real-time, two-way, interactive audio-video transmission.”

Moreover, it specifically provides that telehealth “does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.” That drastically limits the treatment that MassHealth beneficiaries can obtain via telehealth.

In short, any provider treating a MassHealth beneficiary via telehealth needs to utilize synchronous, interactive audio-video technology. Although some telehealth start-up platforms offer to facilitate treatment of patients through text message, with “smart questionnaires” or audio-only telephone interactions, such practices are not permitted by MassHealth.

Covered services

In addition to limiting the method of delivery as discussed above, MassHealth also limits services that may be delivered via telehealth, and the providers who may render services via telehealth.

Specifically, MassHealth allows only community health centers, community mental health centers, and outpatient substance use disorder providers to deliver the mental health services set forth in 101 CMR 306 et seq., and certain categories of outpatient services set forth in 101 CMR 364.04, including opioid treatment services (counseling), ambulatory services (outpatient counseling and clinical case management), and outpatient services for pregnant and postpartum clients.

Reimbursement

MassHealth indicates that services delivered via telehealth will be paid at the same rate as when provided in-person. Providers may not, however, bill a facility fee for distant or originating sites. An “originating site” is the location of the patient at the time of treatment, and a “distant site” is the location of the clinician at the time of treatment.

Typically, if a patient is located in a health care provider facility when he receives treatment via telehealth from a distant site provider, the facility where the patient is located (the originating site) is able to submit a claim to cover the non-clinical services that is provides.

It appears, however, that MassHealth will not pay originating sites for such non-clinical services.

Scope of practice

MassHealth imposes a number of requirements involving clinical practices upon providers treating MassHealth beneficiaries via telehealth. MassHealth requires providers to identify the patient (with the patient’s name, date of birth, and MassHealth ID), disclose the provider’s credentials to the patient, safeguard the patient’s rights to confidentiality and security, inform the patient of the provider’s location (i.e., the distant site), confirm the location of the patient (i.e., the originating site), and provide the patient a description of the process for seeing a clinician in-person in case of emergency.

There are also certain requirements for reviewing patient records.

E-prescribing

Providers treating MassHealth patients via telehealth may only prescribe Schedule II controlled substances after conducting an in-person examination of the patient. After that initial in-person exam, the provider must continue to provide subsequent in-person exams every three months for so long as the provider is prescribing the Schedule II controlled substance to the patient.

Although the ongoing examination requirement may be conducted by a primary care provider in lieu of an in-person visit with the prescribing practitioner, this requirement makes Massachusetts one of the country’s more restrictive jurisdictions with regard to prescribing controlled substances via telehealth.

Indeed, telehealth advocates have long bemoaned the state of federal law in this area, where the Ryan Haight Act has prohibited practitioners from prescribing controlled substances via telehealth unless the practitioner has first



conducted an in-person examination of the patient, or one of a series of outdated telehealth exceptions is satisfied.

In October 2018, Congress took action to expand the circumstances under which providers can prescribe controlled substances via telehealth, spurred largely by the opioid epidemic. As set forth in the Provider Bulletin, MassHealth’s standards appear more restrictive than their federal counterparts.

MassHealth also requires providers prescribing via telehealth to maintain “policies for providing patients with timely and accurate prescriptions by use of mail, phone, e-prescribing and/or fax. Providers must document prescriptions in the patient’s medical record consistent with in-person care.”

Telehealth training

MassHealth will only reimburse services delivered via telehealth provided by behavioral health providers “who have been trained in the provision of services via telehealth, including training in the use of the telehealth equipment”

MassHealth also requires providers delivering services via telehealth to have training programs in place to teach staff members how to use telehealth technology. While the Provider Bulletin contains some general requirements, it stops short of providing specific instructions or issues that must be addressed in such trainings.

Documentation

All documentation and record-keeping requirements that apply when services are rendered in-person in Massachusetts also apply to providers treating MassHealth beneficiaries via telehealth.

Some specific information must also be included in the medical record, including a notation indicating that the service was provided via telehealth, and the physical locations of the originating and distant sites. The provider must also include the CPT (Current Procedural Terminology) code for the service provided via telehealth.

Conclusion

Though MassHealth’s coverage expansion is a step in the right direction, the recent standards fall short compared to those states leading the charge to increase access to care through telehealth.

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