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GARY D. ANDERSON
COMMISSIONER OF INSURANCE

BULLETIN 2020-21

To: All Commercial Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations

From: Gary D. Anderson, Commissioner of Insurance

Date: June 25, 2020

Re: Continued Relaxation of Prior Authorization Procedures in Response to the COVID-19 Health Emergency

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The Division of Insurance ("Division") issues this Bulletin 2020-21 to Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations to update Bulletin 2020-15 ("Relaxing Certain Health Plan Administrative Procedures During the COVID-19 Health Emergency") about the Division's expectations regarding the continued need to relax prior authorization procedures in response to the COVID-19 public health crisis.

The Coronavirus Risk

As the Division has noted in other recent bulletins, the public health and societal impact resulting from the spread of the Coronavirus has dramatically impacted the Commonwealth. In order to minimize the impacts going forward, it is essential that government and business leaders take all appropriate steps to safeguard the general public and well-being of the Commonwealth's citizens. At this time, we are aware that our health care delivery system has shifted resources to make sure that appropriate medical resources are available to address COVID-19 concerns.

Continued Flexibility in Health Carrier Administrative Processes

The Division expects Carriers to take steps to address the following until September 30, 2020 or the end of the COVID-19 public health emergency, whichever is earlier, unless otherwise indicated:

- **Forego prior authorization reviews or concurrent reviews for any scheduled surgeries and behavioral health or non-behavioral health admissions at acute care and mental health hospitals for a period lasting through September 30.** This Bulletin applies to all inpatient treatment, both COVID-19 and non-COVID-19. Both acute care hospitals and

mental health hospitals will be expected to notify Carriers about any inpatient admissions within 48 hours of a patient being admitted for care and provide updates, a minimum of every five (5) days to enable Carriers to support discharge planning.

- **Devote Carrier resources to assist hospitals with discharge planning.** Carriers should continue to assist hospitals in identifying and preparing for members' anticipated health needs after leaving the hospital. Both acute care hospitals and mental health hospitals will be expected to notify Carriers of discharges and request assistance with admissions and aftercare planning to reduce boarding and wait times for admissions.

- **Provide hospitals additional time to respond to Carrier requests for claims review information or to process internal and external appeals and document claims.** Carriers may request necessary and appropriate information, but they should permit hospitals additional time, when requested, so that hospital resources can instead be devoted where necessary to coordinate COVID-19 care.

- **Delay audits of hospital payments.** If Carriers notify hospitals that they are delaying such audits because of the state of emergency, this delay will not count toward any contractual deadlines or other rules that may limit the timing of post-claim audits.

- **Process all "clean claims" according to prompt payment standards**. Carriers should explore ways to provide flexibility to providers during the period of the public health emergency concerning "clean claim" standards and make all efforts to process hospital "clean claims" expeditiously to ensure that hospitals obtain timely reimbursement. We understand that Carriers often pend claims while they make needed operational changes in order to process changes, including those related to cost share protections for members. While this work is necessary to protect members from being balance-billed by providers, Carriers should nonetheless take reasonable steps to minimize the number of claims that are pended during the period of the public health emergency. Nothing in this section should be construed to restrict the ability of carriers to use administrative processes to determine whether a claim is "clean" for the purposes of prompt payment consistent with legal requirements.

- **Explore ways to streamline coding and billing policies to reduce the administrative complexity of coding for claims.** Carriers should look for all ways to facilitate coding of claims and reduce the development of special codes that may differ from one Carrier to another or that differ from Medicare guidance. Carriers are encouraged to discuss these issues by and between Carriers in order to accomplish this goal during the emergency period.

- **Develop processes that expedite health plan credentialing.** As was noted in Bulletin 2020-10, Carriers are expected to implement policies to ensure expeditious credentialing review of COVID-19 providers. In establishing these policies, Carriers should continue to adhere to standards set forth by NCQA and the Massachusetts Board of Registration in Medicine.

Restriction on Retrospective Reviews of COVID-19 Treatment Claims

As Carriers are aware, the Division has issued guidance to indicate that it would not be appropriate for Carriers to require prior authorization of COVID-19 treatment. The Division would also not find it appropriate for Carriers to conduct any retrospective reviews to deny emergency or inpatient hospital services that were provided to treat COVID-19 during the declared state of emergency as being "not medically necessary" when rendered to an insured individual for the purpose of treating COVID-19. Retrospective review may be conducted for instances of fraud, when the claim is the subject of legal action, if the claim payment was incorrect because the provider was paid or the insured has already paid for the services identified in the claim, or if the services identified in the claim were not delivered by the provider.

Carriers Acting As Administrators

Due to the public health crisis caused by Coronavirus, when Carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects Carriers to encourage plan sponsors to take steps that are consistent with the provisions of Bulletins 2020-02, 2020-04, 2020-10, 2020-13, 2020-15 and 2020-21. Plan sponsors should be made aware of the public health risks to all Massachusetts residents, and Carriers should do all they can to encourage plan sponsors to take steps to remove barriers to accessing medically necessary testing, diagnosis, counseling, and treatment of Coronavirus and to provide administrative relief for providers and hospitals during the state of emergency.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau, at (617) 521-7323.