



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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COMMISSIONER OF INSURANCE

BULLETIN 2020-28

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

From: Gary D. Anderson, Commissioner of Insurance

Date: September 22, 2020

Re: Continued Relaxation of Certain Administrative Procedures in Response to the COVID-19 Health Emergency

The Division of Insurance (“Division”) issues this Bulletin 2020-xx to Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations to update Bulletin 2020-21 (“Continued 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

While the number of COVID-19 cases continues to be a source of concern, the number is far below the peak experienced in the spring of 2020 and there has been a reduction in the level of health care resources that are being devoted by most inpatient hospitals to COVID-19 treatment. In Bulletin 2020-21, the Division noted that it expected Carriers to take steps to ease hospital administrative burdens through September 30, 2020 so that these facilities could address lingering COVID-19 treatment concerns. At this time, the Division is aware that inpatient acute care hospitals continue to have administrative resource issues associated with the restart of many community programs in

September 2020. For that reason, the Division is sending this Bulletin to indicate that it expects Carriers to continue to ease administrative processes that were outlined in Bulletin 2020-21 for inpatient acute care hospitals until December 31, 2020 to allow these hospitals to prepare staff for the restart of these administrative processes beginning with dates of service that are on and after January 1, 2021. In addition,, please be aware that the Division expects that Carriers will work with individual hospitals, other facilities and individual healthcare provider offices who reach out to them, especially those continuing to treat significant numbers of COVID-19 patients and who are experiencing unusual staff constraints, to find ways to ease the restart of these processes until such conditions improve.

Restriction on Retrospective Reviews of COVID-19 Treatment Claims

As the Division noted in Bulletin 2020-21, the Division would 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, however, may be conducted for instances of suspected 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, 2020-21, and 2020-28. 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.