



February 9, 2022

Gary D. Anderson, Commissioner
Massachusetts Division of Insurance
1000 Washington Street, Suite 810
Boston, MA 02118-6200

Dear Commissioner Anderson:

On behalf of the members of tMED – The Massachusetts Telemedicine Coalition, we would like to take this opportunity to express our gratitude for the telehealth flexibilities provided by the Division of Insurance (DOI) throughout the COVID-19 pandemic. We especially appreciate Deputy Commissioner Kevin Beagan's assistance over the past two years and in working with the tMED Coalition and answering the many questions and concerns that providers have raised around telehealth usage, coverage, and reimbursement. The use of telehealth has not only enabled patients to obtain medically necessary treatment without being exposed to COVID-19 but has also helped to flatten the curve and save countless lives, allowing hospitals and primary care providers to focus on treating COVID-19 patients. Additionally, the telehealth care that providers have been able to offer to millions of patients during the pandemic has been unprecedented and extremely well received by patients. Importantly, it has improved access to care by helping patients safely overcome many of the traditional barriers to obtaining care. As the current Omicron surge begins to wane, we are reaching out to you regarding one outstanding and very key matter.

Pursuant to Ch. 260 of the Acts of 2020, section 58, the Division of Insurance is directed to develop regulations for the minimum standards of accreditation of carriers for access to behavioral health services, chronic disease management and primary care services via telehealth. These provisions took effect on January 1, 2021. The DOI, along with MassHealth, offered several listening sessions last spring, seeking guidance on what should be included in the regulations. These sessions were dynamic in their inclusiveness and organization. Members of the tMED Coalition, as well as numerous other organizations had the opportunity to provide important feedback to key questions the DOI was asking, and we all greatly appreciated the forums. Further, health plans and providers submitted written comments to assist the DOI with its regulatory task. However, nine months later, the DOI has still not released draft regulations or established a date for a public hearing. We recognize that the DOI and other state agencies have been dealing with the extraordinary circumstances resulting from the pandemic, and we appreciate the ongoing guidance the DOI has provided to ensure that patients and providers can continue to receive telehealth services. However, we are concerned, as carriers have

begun to notify providers about proposed changes in their telehealth policies in advance of any regulatory guidance.

Specifically, at least one carrier has submitted an implementation plan to the Division, per the guidance in Bulletins [2021-10](#) and [2021-04](#), outlining intended reimbursement policies and an approach to defining behavioral health, chronic disease management, and primary care services. It appears that this approach may be inconsistent with the legislature's intent and most importantly, may not serve the best interest of patients in the Commonwealth. As you are aware, these definitions have a significant impact upon the reimbursement for and accessibility of telehealth services. We have also noted additional concerns around provider location, platforms, and required documentation. Given that there are no regulations yet that clearly define which services align with each category and which provider types will be reimbursed on par with in-person visits for those services, the tMED Coalition is concerned that this lack of guidance from the state has led to chaos and confusion in the marketplace for healthcare providers and patients. In addition, as we move forward, it is likely that each carrier may not take the same approach to defining these service categories or identifying what provider types may be reimbursed at parity for such services. Ultimately, the disorder resulting from a lack of uniform definitions will significantly impact patients' ability to receive certain services via telehealth. The provider and hospital communities are seeking clarity and certainty in order to best serve our patients, and it would therefore be helpful to know when the Division expects to release draft regulations and hold a public hearing.

Thank you for your time and your consideration of this important matter. Please do not hesitate to contact Adam Delmolino, Director of Virtual Care & Clinical Affairs at the Massachusetts Health & Hospital Association at adelmolino@mhlink.org or Leda Anderson, Esq., Legislative Counsel for the Massachusetts Medical Society at landerson@mms.org.

Sincerely,

tMED (the Massachusetts Telemedicine Coalition)

Members of the tMED – The Massachusetts Telemedicine Coalition

- Massachusetts Health & Hospital Association
- Massachusetts Medical Society
- Massachusetts League of Community Health Centers
- Conference of Boston Teaching Hospitals
- Massachusetts Council of Community Hospitals
- Hospice & Palliative Care Federation of Massachusetts
- American College of Physicians – Massachusetts Chapter
- Highland Healthcare Associates IPA
- Health Care for All
- Organization of Nurse Leaders
- HealthPoint Plus Foundation
- Massachusetts Association of Behavioral Health Systems
- Massachusetts Academy of Family Physicians
- Seven Hills Foundation & Affiliates

- Case Management Society of New England
- Massachusetts Association for Occupational Therapy
- Atrius Health
- New England Cable & Telecommunications Association
- Association for Behavioral Healthcare
- National Association of Social Workers – Massachusetts Chapter
- Massachusetts Psychiatric Society
- Massachusetts Early Intervention Consortium
- Digital Diagnostics
- Zipnosis
- Perspectives Health Services
- Bayada Pediatrics
- American Heart Association / American Stroke Association
- Planned Parenthood Advocacy Fund of Massachusetts
- Mass. Family Planning Association
- BL Healthcare
- Phillips
- Maven Project
- Upstream USA
- Cambridge Health Alliance
- Heywood Healthcare
- Franciscan Children’s Hospital
- American Physical Therapy Association – Massachusetts
- Community Care Cooperative
- Fertility Within Reach
- Virtudent
- Resolve New England
- Massachusetts Association of Mental Health
- AMD Global Telemedicine
- hims | hers
- Asian Women for Health
- Massachusetts Society of Clinical Oncologists
- AARP Massachusetts
- Reproductive Equity Now
- Recovery Centers of America
- Massachusetts Chapter, American Academy of Pediatrics

cc: Kevin Beagan, Deputy Commissioner, Massachusetts Division of Insurance