



June 12, 2023

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 Division of Insurance’s (DOI’s) support of telehealth flexibilities throughout the COVID-19 pandemic. We especially appreciate Deputy Commissioner Kevin Beagan’s engagement with the tMED Coalition in addressing the many questions and concerns that clinicians 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 also helped to flatten the transmission curve and save countless lives, allowing hospitals and primary care providers to focus on treating all patients. Patients have greatly appreciated the ability to access the care they need via telehealth throughout the pandemic. Additionally, telehealth has improved access by helping patients to safely overcome many of the traditional barriers to obtaining care. As the state and federal public health emergencies have now drawn to a close, we are reaching out to you regarding one outstanding and very key matter.

Pursuant to Ch. 260 of the Acts of 2020, section 58, DOI 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 in spring 2021, seeking guidance in formulating 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 and we all appreciated the forums. Further, stakeholders submitted written comments to assist the DOI with its regulatory task. Subsequently, the DOI promulgated draft regulations on April 12, 2022, and held a public hearing on May 11, 2022, to collect written and oral comments regarding the proposed regulations. The tMED Coalition submitted extensive testimony on behalf of our members regarding these regulations. Since that time, and despite regular inquiries to DOI regarding the status of the regulation, no final regulation has been promulgated. While we appreciate that the Division of Insurance has been dealing with extraordinary circumstances resulting from the pandemic, we are both frustrated and concerned that we have been unable to get

answers from regarding significant implementation issues that impact providers ability to continue offer patients care via telehealth. The lack of final regulations nearly three years after the passage of this act is causing significant confusion for providers and patients, which will persist moving forward absent any clarity from the state.

Providers continue to treat patients largely through a hybrid model, offering care both via telehealth and in person visits. Since January 2023, payers are no longer required to reimburse providers for telehealth visits at parity with in-person rates for primary care and chronic disease management. While there is insufficient evidence that telehealth visits in a hybrid practice are less costly than seeing a patient in person, at least one payer has implemented a policy that arbitrarily reduces reimbursement by 20% across the board. The tMED Coalition is deeply troubled that payers are reducing reimbursement for telehealth by claiming that there is a significant reduction in administrative and overhead costs when there is no sound data to support that assertion and providers continue to carry the same if not increased practice expenses when offering care via hybrid practice – a practice that will continue for the near future, given current telehealth utilization rates. Notably, this 20% reduction in payment by this provider includes behavioral health visits when provided by a primary care clinician rather than a behavioral health clinician, contrary to the intent of Chapter 260 and the draft regulations issued in April 2022. Absent final regulations, there does not appear to be any recourse for this payer who is not acting in accordance with the law and draft regulation.

As you are aware, the definitions of what constitutes behavioral health services, in addition to primary care services and chronic disease management services, has a significant effect upon the reimbursement for and accessibility of telehealth services. Given that there are no final regulations that clearly define the services delineated in the legislation, the tMED Coalition is concerned that this lack of guidance from the state has compounded confusion in the marketplace for healthcare providers and patients. In addition, as we move forward, it is likely that each carrier may take a different approach to defining these service categories or identifying what provider types may be reimbursed at parity. The disorder resulting from a lack of uniform definitions is significantly affecting patients' ability to receive certain services via telehealth. The provider and hospital communities are seeking clarity and certainty to best serve our patients, and it is therefore important to know when DOI expects to release final regulations.

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@mhalink.org, or Leda Anderson, Esq., Director of Advocacy & Government Relations for the Massachusetts Medical Society at landerson@mms.org.

Sincerely,

tMED - the Massachusetts Telemedicine Coalition

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

Mary Beckman, Senior Advisor, EOHHS

Members of 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
- American College of Cardiology – Massachusetts Chapter
- The ALS Association

- Zipnosis
- Perspectives Health Services
- Bayada Pediatrics
- Planned Parenthood League 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
- Reproductive Equity Now
- Recovery Centers of America
- Massachusetts Chapter, American Academy of Pediatrics
- Massachusetts Speech and Hearing Association
- Southcoast Health
- Massachusetts Orthopedic Association
- Transhealth
- Massachusetts Academy of Nutrition & Dietetics