CONVENTUS

Risk Alert

March 27, 2020

COVID-19 UPDATE

Coronavirus Aid, Relief, and Economic Security (CARES) Act: Highlights For Your Practice

The Senate passed the Federal Coronavirus Aid, Relief, and Economic Security Act (CARES/H.R. 748) on Wednesday, March 25, 2020. **Today, March 27, the House has approved the bill**. This is the third major bill by Congress in response to Coronavirus (COVID-19). The purpose of the Act is to provide financial relief and resources to individuals, families and businesses particularly hard hit by the COVID-19 public health emergency (PHE). Some important provisions to help healthcare providers respond include: the creation of an emergency fund grant program; additional support in caring for COVID-19 patients; relief from Medicare sequestration and; small business loans. How might this legislation affect your practice? The legislation is lengthy, so we summarized some of the major healthcare provisions for you.

Help for Hospitals, Healthcare Providers and Small Business Owners

- New Paycheck Protection Program which provides loans to small businesses will be guaranteed by the U.S. government. These loans may be used for payroll costs, utilities, rent, leave and health benefits, retirement obligations, and other uses. For more information and to check your eligibility status for this program, visit Conventus COVID-19 Resources on our website and then click on "*Business Emergency Funding and Relief Program.*"
- $100 billion to reimburse eligible healthcare providers for healthcare-related expenses or lost revenues not otherwise reimbursed that are directly attributable to COVID-19. Eligible providers are defined as public entities, Medicare or Medicaid enrolled suppliers and providers, and other for-profit and non-profit entities as specified by the Department of Health and Human Services (DHHS) Secretary.
- Funds will be available for building or construction of temporary structures, leasing of properties, medical supplies and equipment including Personal Protective Equipment (PPE) and testing supplies. Funds may not be used to reimburse expenses or losses that have been reimbursed from other sources.

Medicare Payment Improvements and Flexibilities

- ***Eliminates the 2% Medicare sequester from May 1 through December 31, 2020.***
- Provides a 20% add-on to the Diagnosis Related Group (DRG) rate for patients with COVID-19. This applies to patients treated at rural and urban inpatient prospective payment system (IPPS) hospitals.
- Prevents scheduled reductions in Medicare payments for clinical diagnostic laboratory tests furnished to beneficiaries in 2021.

Health Coverage and Patient Access

- Requires Medicare Part D to provide up to a 90-day supply of a prescription medication if requested by the beneficiary during the PHE. However, it excludes patients with any applicable opioid safety edits.
- All testing for COVID-19 is to be covered by private insurance plans without cost sharing, including those without an Emergency Use Authorization (EUA) by the Food and Drug Administration (FDA).
- Requires the insurer to pay for COVID-19 testing either at the rate specified in a contract between the provider and insurer, or, if there is no contract, a cash priced posted by the provider.
- Medicare Part B beneficiaries will receive all COVID-19 testing without any cost-sharing.
- Non-expansion states can use the Medicaid program to cover COVID-19 related services for uninsured adults who would have qualified for Medicaid if the state had chosen to expand.

Health Coverage and Patient Access (cont'd)

- Free coverage without cost sharing for a vaccine within 15 days for COVID-19 that has an "A" or "B" rating from the United States Preventive Services Task Force (USPSTF).
- Allows state Medicaid programs to pay for direct support professionals, which are caregivers trained to help with Activities of Daily Living (ADLs) to assist disabled patients in the hospital to reduce Length of Stay (LOS) and free up beds.
- Enables physician assistants, nurse practitioners and certified nurse specialists to certify home health services and document-related requirements.

Telehealth

- Eliminates the Medicare requirement that providers must have treated the patient for the past three years to provide telehealth during the PHE. The DHHS previously indicated it would not conduct audits to ensure this prior relationship existed. However, it is now official that this requirement is waived during the PHE.
- Eliminates the requirement during the PHE that a nephrologist conduct some of the required face-to-face periodic evaluations for home dialysis patients.
- Allows hospice recertifications to be completed via telehealth rather than a face-to-face visit during the PHE.
- Allows High Deductible Health Plans (HDHP) with a Health Savings Account (HSA) to cover telehealth services prior to the patient reaching the deductible.
- Removes the restriction of Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) that prohibited them from serving as distant sites during the PHE. They will now be able to provide telehealth services to patients in their homes or other eligible locations. The rate of payment will be comparable to telehealth services under the Physician Fee Schedule (PFS).

Limitations of Liability for Volunteers

- Only during the PHE, healthcare professionals who volunteer will not be liable under federal or state law for any harm (physical, non-physical, and economic losses) caused by an act or omission in the provision of services in the diagnosis, prevention or treatment of individuals with suspected or confirmed COVID-19, if these services are provided within their scope of licensure/registration/certification and in good faith.
- Healthcare professionals are considered volunteers if they do not receive compensation or any other thing of value in lieu of compensation. This excludes reimbursement for travel, room and board, if the volunteer travels greater than 75 miles from their principal place of residence.
- Exceptions to the limits of liability: harm caused by willful or criminal conduct; gross negligence; reckless misconduct; conscious flagrant indifference to the rights or safety of patients or; healthcare professional is under the influence of alcohol or intoxicating drugs.

Note:
The Public Readiness and Preparedness Act (PREP) authorized the DHHS to declare a PHE on February 4, 2020. It provides for immunity from tort liability under federal or state law to individuals or organizations involved in the manufacture, distribution, or dispensing of medical countermeasures for COVID-19. Covered countermeasures include vaccines, antidotes, medications, medical devices or other FDA regulated assets to respond to pandemics. The immunity also applies to qualified persons who prescribe, administer, or dispense countermeasures.

Patient Privacy and Substance Abuse Disorder

- For substance abuse disorders, allows patient's prior written consent to be given once to a covered entity, business associate, or program for purposes of treatment, payment, healthcare operations, until such time as the patient revokes such consent in writing.

Healthcare Workforce

- Provides $3.5 billion in additional funding for the Child Care Development Block Grant to provide childcare assistance to healthcare sector employees, emergency responders, and other workers deemed essential during the response to COVID-19.
- Amends changes to the Families First Coronavirus Response Act to limit the total amount employers may have to pay under each benefit, among other changes.

Medical Supplies and Drug Shortages

- Certain medical supplies and drugs will be included in the Strategic National Stockpile (SNS), including PPE, ancillary medical supplies, supplies necessary for the administration of drugs, diagnostic tests, vaccines and other biologic products and medical devices.
- Provides permanent liability protection for manufacturers of personal respiratory protective equipment, such as masks and respirators, in the event of a PHE, to incentivize production and distribution.
- Places new requirements on device manufacturers to notify the DHHS Secretary of potential or likely shortages due to discontinuance or interruption during or in advance of a PHE. It also allows for expedited inspection and review to curb any potential shortages. Specific devices that will be covered are those that are life-supporting, life-sustaining, and/or used in emergency medical care or during surgery.
- Requires additional manufacturer notification and reporting requirements in response to drug shortages.

Other provisions during the COVID-19 PHE include: funding for domestic nutrition assistance programs; affordable housing and assistance programs; increased funding for Veterans' Affairs(VA) facilities to support increased demand for healthcare services through telehealth; funding for increased demand of emergency room and urgent care services in communities and; development of alternative sites of care to meet the demand for healthcare services.

Conventus remains dedicated to providing your practice with needed information during the COVID-19 PHE, including toolkits for telehealth implementation and coding, and more. These Conventus COVID-19 Resources are available to you on our website. As always, please contact the Conventus Practice Resources Department at (877) 444-0404, x7466, if you have any questions.

For more information please contact us at:
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