October 16, 2020

The Illinois Life & Health Insurance Council (ILHIC) and our state's health insurance providers believe telehealth plays an extremely valuable role in our state's health care coverage and delivery system by offering convenient access to affordable, high-quality care. We also firmly believe access and affordability of telehealth services is critical to minority and rural communities. Telehealth services can fill access gaps in these areas that are underserved by medical providers. Affordability of those services, however, can either create or detract from access and service reimbursement must reflect reasonable costs incurred by providers.

The health insurance provider community made significant investments to rapidly expand telehealth availability and coverage to individuals, families, and employers throughout Illinois in the early stages of the public health emergency in order to overcome the access to care and provider capacity challenges created by COVID-19. These investments included removing patient cost-sharing for telehealth services and paying providers at parity at a time when in-person care was not feasible. Health insurance providers also expanded the list of services covered and reimbursed by telehealth in addition to building up communications strategies that supported greater utilization of telehealth to ensure that patient health care needs were still being addressed when public health safety concerns created higher risk for in-person care.

Federal and state regulatory changes were required to support some of these telehealth expansions in public health insurance programs like Medicare and Medicaid where rules prevented certain types of providers from being reimbursed for telehealth visits, or geographic and site of care limitations may have otherwise prevented reimbursement, as an example.

The coverage changes made by health insurance providers, in addition to the federal and state regulatory relief that was granted, represent variables that ultimately contributed to a significant increase in telehealth utilization this year.

This is not to suggest, however, that health insurance providers and payers do not support implementation of these coverage and regulatory changes on a more permanent basis. In fact, groups such as the Alliance for Connected Care and the American Telehealth Association that represent a diverse spectrum of entities integral to the health care coverage and delivery system– payers, providers, and patient groups alike – have come together to analyze the telehealth experience against the

backdrop of the pandemic and recommended specific COVID-19 policy changes that should be made permanent.[1]

ILHIC and its members believe we have the same opportunity to approach reforms to our state telehealth coverage laws and regulations in a collaborative way that ensures telehealth remains a critical part of our state's health care ecosystem while also implementing necessary guardrails to protect consumer access to high-quality, outcomes-based, affordable health care.

To that end, we have collected information and data highlighting utilization trends experienced by some of our health insurance provider members in Illinois, and provided a summary of policy principles we look forward to discussing with legislators and members of the provider and patient advocacy community as we seek these telehealth reforms in our state.

Existing Consumer Protections

Prior to the public health emergency when health insurance providers lifted all cost-sharing for telehealth services, state law governing telehealth coverage (215 ILCS 5/356z.22) provided coverage parity protection to consumers. In a letter submitted to members of the General Assembly and the Administration on September 28 by members of provider and patient coalition incorrectly noted that Illinois does not currently require coverage parity. Per the current statute, "*deductibles, copayments, or coinsurance applicable to services provided through telehealth shall not exceed the deductibles, copayments, or coinsurance required by the individual or group policy or accident or health insurance for the same services provided through in-person consultation.*"

Additionally, the letter also claims that "*by allowing insurers to negotiate separate in-person and telehealth payment rates, particularly as premiums continue to rise, insurers will profit at substantial expense to patients, providers, professionals and employers."* The health insurance sector is currently the only sector of our health care economy that is held to profit caps when it comes to our consumer's health care dollars under state and federal laws. Current law requires at least 85 cents of every health care premium dollar collected by members to go towards their medical care needs and if health insurance providers do not achieve this benchmark, consumers are entitled to a rebate.

Furthermore, the process of negotiating rates with providers for services, including in-person services, is consistent with current practice and used specifically for the purpose of lowering premiums and costs to members – not for increasing profits or margin. By advocating for a policy that eliminates the dynamics of a process that exists for all other services for the purpose of lowering the cost of care not only risks higher premiums for the consumer, but it also eliminates the opportunity of the payer and the provider to identify telehealth services that may actually warrant higher reimbursements than in-person care.

[1] Alliance for Connected Care, NCQA, and American Telehealth Association. *Taskforce on Telehealth Policy (TTP) Findings and Recommendations* (September 2020). Available from https://www.ncqa.org/wp-content/uploads/2020/09/20200914_Taskforce_on_Telehealth_Policy_Final_Report.pdf

As noted by the Alliance for Connected Care, the NCQA, and the American Telehealth Association in a recent report issued last month, "*telehealth should be seen as neither inherently driving or reducing costs.*"[2]

We could not agree more, which is why we believe it is important to look at state telehealth coverage reforms in the context of what is already in place for consumers, utilization, and opportunities for policy changes that support, at a minimum, a cost-neutral approach to telehealth expansion.

Utilization Trends

ILHIC appreciates legislators desire to have a data-informed approach to updating the state's telehealth regulations, as the Council and our members believe it is important to strengthen these regulations in order to sustain and improve upon patient use of and access to virtual care beyond just COVID-19.

As noted by the coalition of provider and patient groups September 28 letter, telehealth utilization increased substantially in Illinois during the public health emergency and while more individuals are seeking in-person care, telehealth remains at a higher utilization rate than pre-pandemic rates. Telehealth claims to private health insurance providers increased by more than 4,300% in the first six-months of 2020 over the same period of time in 2019.

In an effort to try and capture data points that will help inform this process, ILHIC surveyed members and worked with existing data sources like FAIR Health, to provide a clearer picture regarding the utilization trends as they relate to telehealth both pre- and during COVID.

The data ILHIC gathered speaks to a common theme in telehealth claims experience that is also supported by national and regional data in that behavioral health appears to have been the most utilized provider and service, but the data reported by members and nationally also shows that behavioral health was already a service benefiting from the use of telehealth pre-COVID albeit at much smaller utilization levels. Family and primary care was also a service that saw a large increase during the public health emergency. Utilization spiked significantly in April and May and in some cases, surpassed the number of medical claims filed during that period, but while telehealth still remains at higher levels than levels reported over the same period last year, in-person visits are beginning to climb past telehealth visits even as COVID-related coverage and policy changes remain intact.

Additionally, while the data speaks to utilization trends, it will take more time to extract more instructive data that shows the breakdown of these claims in a way that can begin to demonstrate patient outcomes, including areas that may show waste, or even fraud and abuse.

As cited previously, it bears repeating that one major variable likely impacting utilization is the removal of all cost-sharing for telehealth services. Pre-COVID, Illinois law (215 ILCS 356z.22) requires deductibles, copayments or coinsurance applicable to service provided through telehealth to be at parity with those deductibles, copayments, or coinsurance required for the same services provided through in-person consultation.

[2] Alliance for Connected Care, NCQA, and American Telehealth Association. *Taskforce on Telehealth Policy (TTP) Findings and Recommendations* (September 2020). Available from https://www.ncqa.org/wp-content/uploads/2020/09/20200914_Taskforce_on_Telehealth_Policy_Final_Report.pdf

Telehealth Trends Pre- and During -COVID

The trend lines for telehealth were already rapidly increasing before COVID. According to a FAIR Health study, the use of non-hospital based telehealth grew by 1393% from 2014 to 2018.[3]

Similarly the American Medical Association (AMA) acknowledged that a national study of insurance claims for alternative settings of care found that telehealth had increased by 53% from 2016-2017, outpacing other settings studied – 14% at urgent care centers, 7% at retail clinics, and 6% at ambulatory surgical centers – while emergency room departments saw a 2% decline during that period.[4]

According to FAIR Health data on private insurance claims in the Midwest region, including IL, for telehealth in January 2020 of this year, mental health conditions was the top diagnosis followed closely by acute respiratory disease and infections. By March of 2020, the trendline for telehealth claims began a steep climb with mental health conditions still topping the list of top diagnoses for telehealth, eclipsing other diagnoses by consistently remaining the diagnosis represented in over 40% of claims filed between March – June.[5]

It is important to note though that mental health conditions also topped the list of diagnoses in telehealth claims filed between January – June 2019 even though the volume of claims was substantially lower.

The claims and utilizations experience reported ILHIC members reporting telehealth data is similar to these pre-and post-COVID trend lines and has been de-identified and summarized below:

- One health insurance provider reported a consistently higher number of behavioral health telehealth claims than medical telehealth claims between August 2019 and November 2019 (medical telehealth claims only surpassed behavioral in December 2019). January and February 2020 reported similar trends and by March, the number of behavioral health telehealth claims soared by more than 5,500% over claims filed in February while medical claims increased by 3,984% over the previous month.
    - April 2020 saw the most telehealth claims filed– behavioral and medical – with behavioral health claims increasing over March 2020 by 74% and medical claims increasing over the previous month by 402%.
    - Both behavioral and medical telehealth claims remained at similar levels through June 2020.

- Another health insurance provider member reported claims experience broken down by its top 7 provider types, comparing physical office visits to telehealth visits during April and May 2020

[3] A Faith Health White Paper. *A Multilayered Analysis of Telehealth* (July 2019). Available from https://s3.amazonaws.com/media2.fairhealth.org/whitepaper/asset/A%20Multilayered%20Analysis%20of%20Telehealth%20-%20A%20FAIR%20Health%20White%20Paper.pdf

[4] American Medical Association. "*Telehealth up 53%, growing faster than any other place of care,"* May 29, 2019. Available from https://www.ama-assn.org/practice-management/digital/telehealth-53-growing-faster-any-other-place-care

[5] FAIR Health Monthly Telehealth Regional Tracker. Available from https://www.fairhealth.org/states-by-the-numbers/telehealth

amongst its Illinois fully-insured members and found that the percentage of office visits (49.7%) was only slightly less than telehealth visits (50.3%) during that time. In January and February 2020, however, data shows that office visit claims (99.7%) eclipsed telehealth claims (0.3%) across those same 7 provider types.
    - Mental health and counseling professionals represented the provider type with the largest number of telehealth visits both pre-COVID and during COVID, but the increase in those visits increased by 7,330% in April and May.
    - Family physicians and general practice visits were the next most common provider type used during this four month period and claims were nearly split evenly between office (49.1%) and telehealth (50.9%).
    - Only Internists (Internal Medicine) were the other provider type to report more telehealth visits than office visits during this time. While all other top provider types based on claims reported during this period (Nurse Practitioner, Pediatrics, Dermatology, Obstetrics & Gynecology, and all other) saw an increase in telehealth visits over January and February 2020, office visits still exceeded telehealth claims in April and May 2020.

- Another health insurance provider member reported the top primary care diagnosis for telehealth in 2019 was major depressive disorder. Similarly, telehealth claims filed during the height of the public health emergency also showed that depression and anxiety-related disorders remained as the top diagnoses reported, with telehealth claims experiencing their highest volume in April and May; however, medical claims filed during this same period continued to surpass telehealth.
    - Telehealth claims broken down by specialty in Illinois found that in 2019 psychiatry were the most highly utilized provider for telehealth whereas family and internal medicine represented the most highly utilized providers for telehealth claims filed in other non-Illinois based service areas.
    - Telehealth claims filed through August 2020 showed that family medicine and social workers were the most highly utilized providers for telehealth services with nurse practitioners, professional counselors, and general psychiatry rounding out the top 5.

- Another health insurance provider member reported similar common provider types reporting telehealth claims since January 1, 2020, with the largest number of telehealth claims filed in the months of April, May, and June.
    - Behavioral health providers represented the largest portion of telehealth claims (this includes counseling, social work, psychology, and psychiatry), but when broken out by specific provider type, Counseling represented the third largest number of telehealth claims filed, followed by Social Work, Psychology, and Psychiatry.
    - Family Medicine and Internal Medicine actually topped the list of the most common provider types identified in these telehealth claims with Internal Medicine, Pediatrics, Dermatology, Endocrinology , and OB-GYN rounding out the remaining provider types reported (after the behavioral health-related providers).

Health insurance providers are in the process of identifying billing (CPT) codes that can show more of the content of these utilization trends, but based on regional data reported by FAIR Health that pulls

from commercial and Medicare plans, some of the story is starting to unfold based on common CPT codes billed in the months of March – June vs. January and February:[6]

- CPT codes typically reported in telehealth claims in March – June:
  - 90837 – Psychotherapy, 60 minutes
  - 99213 – Established Patient Office or Other Outpatient Visit, Typically 15 minutes
  - 99214 – Established Patient Office or Other Outpatient Vitis, Typically 25 minutes
  - 90834 – Psychotherapy, 45 minutes
  - 99442 – Physician Telephone Patient Service, 11 – 20 minutes of medical discussion

- CPT codes typically reported in telehealth claims in January & February (pre-COVID):
  - 99422 – Online Digital Evaluation and Management Service (for an established patient), for up to 7 days, cumulative time during the 7 days; 11-20 minutes
  - 99441 – Physician Telephone Patient Service, 5-10 minutes of medical discussion
  - Q3014 – Telehealth Originating Site Facility Fee
  - 99421 – Online Digital Evaluation and Management Service (for an established patient), for up to 7 days, cumulative during the 7 days; 5-10 minutes
  - 98960 – Education and Training for Patient Self-Management, each 30 minutes

Principles for Legislative and Regulatory Reform

Policy reforms should be based off early lessons learned from the public health emergency while also cognizant of the lessons that still must be learned. Therefore, implementing permanent solutions designed to address a crisis must be considered carefully in order to ensure that consumer access to care and the effect on the total cost of that care is not jeopardized in a health care environment that is not overtaken by a public health emergency.

Individuals, families, and employers not only represent the patients accessing the system, but they also represent those paying for that system and as noted by a J.D. Power annual market opinion research on telehealth, cost is a significant driver of health care satisfaction, concluding that it will be "important for telehealth providers to demonstrate the exchange of value of cost and quality in telehealth services over traditional healthcare services."[7]

- ***Build on existing consumer protections and guardrails:*** As noted, current law requires coverage parity with respect to telehealth and in-person services cost-sharing requirements. Additionally, we believe there is opportunity to strengthen the current law to prohibit exclusion of a health care service from coverage solely because that health care service is provided through telehealth so long as the health care service is medically appropriate. Furthermore, expanding and refining the definition of telehealth will also be key in protecting consumers against the potential for fraud and abuse.

[6] FAIR Health Monthly Telehealth Regional Tracker. Available from https://www.fairhealth.org/states-by-the-numbers/telehealth

[7] J.D. Power White Paper. *As Telehealth Techology and Methodologies Mature, Consumer Adoption Emerges as Key Challenge for Providers* (July 2019). Available from https://www.americantelemed.org/wp-content/themes/ata-custom/download.php?id=3546

For example, the US Department of Justice recently filed charges against more than 300 individuals on September 30 accused of fraudulently billing insurers for $4.5 billion in misuse of telehealth-related services; a service that the DOJ cited is becoming an increasing source of health care-related scams.[8]

We are reviewing federal and state laws as well as the circumstances which triggered the fraud charges noted above to ascertain appropriate recommendations to protect consumers and deter potential fraud and abuse.

- ***Expand access to care:*** Current law restricts providers allowed to practice telehealth to those licensed in Illinois, which limits patient access to specialists that may be located outside of the state. Travel restrictions and limitations implemented during the public health emergency for example made it difficult for those seeking care outside of the state to receive that care in-person, but current state regulations also make it difficult for those patients to receive that care via telehealth should they need it.

  Policy recommendations advanced by the Alliance for Connected Care, NCQA and the American Telehealth Association suggest making permanent policies that support eliminating geographic restrictions and limitations on originating sites, in addition to eliminating unnecessary restrictions on telehealth across state lines. Furthermore, we also support enhanced access to providers via telehealth when that access is supported by their scope of practice.

- ***Support value-based and outcomes-based care:*** Telehealth is a critical component of the health care coverage and delivery system, but it should not exist as a service that is viewed as entirely untethered to in-person care. Telehealth used to address and triage immediate primary care concerns , including addressing behavioral health-related conditions created or exacerbated during a public health emergency, and chronic disease management is different than telehealth used by hospitals to address conditions that may require post-discharge follow-up. Therefore, implementing payment requirements in statute that do not recognize the variables that exist in how telehealth is used or completely ignore whether the service is comparable to that of an in-person visit achieve nothing more than to inflate the cost of care and create opportunity for waste and potential fraud.

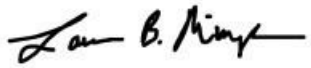
  Payment parity should be supported when service delivered via virtual care is equal to that of service that would have otherwise been delivered in-person. Additionally, creating strict requirements for reimbursement implemented during a crisis situation leave little opportunity to explore outcomes and payment incentives that may reach beyond providing strictly clinical supports. Assessing the demographic reach of telehealth will prove important to ensure that these services are reaching the populations that need these services the most, including those in lower-income and rural communities. Implementing strict reimbursement requirements could restrict implementation of payment structures designed to improve the demographic and geographic reach of telehealth services.

[8] The Wall Street Journal. "*Justice Department Charges Hundreds with Medical Fraud,"* September 30, 2020. Available from https://www.wsj.com/articles/justice-department-charges-hundreds-with-medical-fraud-11601502219?mod=searchresults&page=1&pos=2

> As noted by the insurer, provider and patient groups represented in the Alliance for Connected Care and the American Telehealth Association policy recommendations, "[I]t is in everyone's interest to ensure that telehealth services are reimbursed at a rate that reflects the cost of providing these services and the value that they bring as part of the overall care experience. Appropriate reimbursement and access to telehealth services will allow patients to utilize these services where they and their care team feel it is both clinically appropriate and the best possible way of receiving care."[9]

ILHIC looks forward to engaging in a collaborative and thoughtful policy approach to support what we believe is a common goal, and that is strengthening our state's regulations to sustain and improve upon patient use of and access to virtual care beyond just COVID-19.

Sincerely,



President
Illinois Life & Health Insurance Council

[9] Alliance for Connected Care, NCQA, and American Telehealth Association. *Taskforce on Telehealth Policy (TTP) Findings and Recommendations* (September 2020). Available from https://www.ncqa.org/wp-content/uploads/2020/09/20200914_Taskforce_on_Telehealth_Policy_Final_Report.pdf