

Massachusetts Implements Permanent Telehealth Policy, Extends MassHealth Telemedicine Coverage

Insights

07.07.20

Like most other states, Massachusetts has altered its regulation of telemedicine substantially during the COVID-19 pandemic, but absent additional legislation or rulemaking, the Commonwealth will return to the status quo when the pandemic-related emergency orders expire. New guidance issued by the Massachusetts Board of Registration in Medicine (“BORIM”) and MassHealth helps to clear up some issues of core importance to providers treating Massachusetts patients via telemedicine in the months to come.

BORIM Telemedicine Policy. In March, BORIM adopted an interim policy on telemedicine for the duration of the COVID-19 public health emergency (“PHE”), advising that a practitioner-patient relationship may be established via telemedicine without a prior in-person examination in Massachusetts, and that the same standard of care applies to services provided in-person and via telemedicine. On June 25th, 2020, BORIM removed the “interim” designation, and announced that the interim telemedicine policy would now be permanent. See BORIM Policy 2020-01.

Before this year’s policies, BORIM’s only position on telemedicine addressed electronic prescribing standards. See BORIM Policy 89-01.

MassHealth All Provider Bulletin 298. During the COVID-19 PHE, MassHealth has covered all normally covered services when they are furnished via telemedicine, and has granted providers considerable flexibility in determining what modality, *i.e.*, type of technology, is most appropriate for a particular situation. See MassHealth All Provider Bulletins 289 and 291. In late June, MassHealth published All Provider Bulletin 298, which extends the duration of its expanded telemedicine coverage through December 31, 2020. Before the COVID-19 PHE, MassHealth’s telemedicine coverage was limited to certain behavioral health services and substance use disorder treatment. See MassHealth All Provider Bulletin 281.

Telehealth in Massachusetts – Looking Ahead. The remainder of 2020 and 2021 will be critical in the development of Massachusetts’ regulatory framework. While the BORIM Policy is a major development, further changes are possible through pending Massachusetts legislation, and there is currently no indication how other important waivers introduced during the COVID-19 PHE, such as those requiring coverage and payment parity among private payers and helping out of state providers gain permission to treat patients located in Massachusetts, will be addressed.

HLB’s Digital Health Team will continue monitoring these important developments for providers in Massachusetts and across the country. Comprehensive analysis of telehealth’s growth during the COVID-19 pandemic is available at www.hlbccovid10.com.

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