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Insights

The CARES Act: Provisions Relevant to Health Care Providers & Access to Health Care Services

March 26, 2020

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The CARES Act provides for a number of provisions relevant to health care providers and access to health care services. Specifically, the legislation includes, among other forms of health care related relief, support for expansion of telehealth services, Medicare policy changes, coverage of COVID-19 testing and preventive services, and access to health care supplies.

Health care providers should note the following, and can expect additional follow-up guidance from Krieg DeVault's Health Care attorneys regarding health care policy changes under the CARES Act in the future:

Telehealth Services:

The CARES Act provides for several changes related to telehealth services, aimed at expanding access to care during the public health emergency delcaration period. Specifically, the legislation will allow for the following with respect to telehealth services:

- Elimination of the requirement provided in the Coronavirus Preparedness and Response Supplemental Appropriations Act that health care providers, or other providers in the same practice group, must have treated the patient in the last three years, in order for the patient to qualify for telehealth services during the public health emergency delcaration.
- Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) may serve as distant sites eligible for Medicare reimbursement, allowing Medicare beneficiaries to receive telehealth services from their homes.
- High deductible health plans (HDHP) with health savings accounts (HSAs) may cover telehealth services prior to an individual reaching his or her deductible.
- Hospice physicians and nurse practitioners may use telehealth technologies to satisfy the face-to-face recertification of Medicare eligibility requirement.
- Home dialysis patients may receive periodic evaluations using telehealth technologies.

Coverage of COVID-19 Testing and Preventive Services:

The CARES Act also includes coverage for COVID-19 testing and preventive services as follows:

- Group health plans and private insurers are required to cover all COVID-19 testing without any cost-sharing.
- Insurers must pay the previously negotiated rate for all COVID-19 testing. If a rate was not previously negotiated, the insurer must reimburse the provider in an amount that equals the cash price, as listed by the provider on a public internet website.
- Group health plans and private insurers are also required to cover any "qualifying coronavirus preventative service." This term is defined in the CARES Act as any item, service, or immunization that is intended to prevent or mitigate a coronavirus disease 2019 and that is either: an evidence-based item or service that has in effect a rating of 'A' or 'B' in the current recommendations of the United States Preventive Services Task Force; or an immunization that has in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved.

Medicare Policy Changes:

The CARES Act includes several Medicare policy changes that will allow health care providers increased flexibility to treat beneficiaries during the public health emergency delcaration. Medicare-related changes include, but are not limited to, the following:

- Elimination of the 2% Medicare sequester, beginning on May 1, 2020, and ending on December 21, 2020.
- Medicare will increase payments for in-patient hospitalizations of COVID-19 patients by 20 percent.
- A Medicare Part D beneficiary may obtain up to a 90-day supply of a prescription drug, upon request.
- Hospitals may receive accelerated Medicare payments, on a periodic or lump sum basis, during the public health emergency delcaration. The Medicare payments to hospitals may be increased up to 100 percent, or in case of critical access hospitals, up to 125 percent.
- Medicare Part B beneficiaries may receive the COVID-19 vaccine without cost-sharing.

Access to Health Care Supplies:

The CARES Act includes several provisions related to access to health care supplies for health care providers. Examples of provisions include a requirement that:

- The Strategic National Stockpile include personal protective equipment, ancillary medical supplies, and other applicable supplies required for the administration of drugs, vaccines, and other biological products, medical devices, and diagnostic tests.
- Device and drug manufacturers provide notice to the Health and Human Services Secretary of potential disruptions of critical drugs and devices that would significantly affect or pose a threat to public health security or national security.
- Manufacturers, among other actions, promote supply chain redundancy and contingency planning, encourage domestic manufacturing, and improve planning considerations for medical product supply chain capacity during the public health emergency delcaration.

The CARES Act includes several other health care provisions related to Medicaid policy changes, over the counter prescription drugs, emergency funds for hospitals and health systems, and other forms of health care appropriations. As stated above, additional guidance from Krieg DeVault's Health Care attorneys will follow.