



Government of the District of Columbia Department of Insurance, Securities and Banking

Karima Woods
Acting Commissioner

Commissioner's Order 01-2020

RESPONSE TO COVID-19 PUBLIC HEALTH EMERGENCY

WHEREAS, on March 11, 2020, Mayor Muriel Bowser declared a Public Emergency and Public Health Emergency pursuant to Mayor's Order 2020-046, as supplemented by the COVID-19 Response Emergency Amendment Act of 2020, effective March 17, 2020 (D.C. Act 23-0247; ___ DCR___) ("Act"), because of the impact of COVID-19 in the District;

WHEREAS, pursuant to D.C. Official Code §§ 7-2304(b) and 7-2304.01(d), Mayor Bowser has authorized and directed the Commissioner of Insurance, Securities and Banking to exercise the emergency powers conferred by § 302 of the Act as are necessary to protect the interests of health carriers, enrollees and the public for the duration of the public health emergency;

THEREFORE, pursuant to § 302 of the Act, it is hereby ORDERED, effective immediately, that the following emergency measures shall be implemented and remain in effect through the duration of the Public Health Emergency, including any extensions, and shall apply to all carriers offering health benefit plans in the District as defined at D.C. Official Code § 31-3301.01(20) and all medical services obtained during such period:

1. Screening, testing and treatment: To ensure that cost does not create a barrier for consumers receiving medically necessary screening, testing and treatment for COVID-19 or suspected COVID-19 or respiratory diseases and illnesses detected in the course of seeking screening, testing, or treatment for COVID-19 when a provider recommends such services pursuant to Centers for Disease Control ("CDC") guidelines, all carriers shall make these services available with no deductible, coinsurance, copayment, or other cost-sharing of any kind, including all associated costs such as processing fees and clinical evaluations, and shall not require prior authorization. While enrollees may be encouraged to visit their primary care practitioners or other network providers for screening, testing and treatment, carriers shall cover all out-of-network charges including cost-sharing and balance billing unless the enrollee was first offered the service in-network without unreasonable delay. The Department will be instituting expedited grievance procedures to review adverse decisions on requests for coverage for COVID-19 related health services.
2. Network adequacy: Out-of-network providers and facilities are requested to accept the highest of a carrier's in-network reimbursement as full and final payment and to hold harmless enrollees who receive health care services as it relates to screening, testing and treatment of COVID-19. Providers are also encouraged to use the enrollee's in-network

laboratory facilities. Charges by out-of-network providers will be subject to the prohibition on overcharging during a public health emergency pursuant to D.C. Official Code 28-4102.

3. Immunizations and vaccines: If and when an immunization or vaccine becomes available for COVID-19 per CDC guidelines, carriers shall immediately cover the cost for such services, including all associated costs of administration without cost-sharing.
4. Emergency care: Carriers are reminded that District law requires coverage of emergency services, with network-level cost-sharing regardless of the status of the emergency provider, whenever a prudent layperson, possessing an average knowledge of medicine and health, would believe that immediate medical attention is necessary to avoid serious jeopardy to health, serious impairment of a bodily function; or serious dysfunction of any organ or body part. Prior authorization may not be required for emergency services.
5. Telehealth: Because COVID-19 is a communicable disease, some enrollees might choose or be asked to use telehealth services instead of in-person health care services, or might be under restrictions that limit their ability to visit providers in person. Carriers shall enhance their coverage of telehealth services, and are directed to review their telehealth programs with participating providers to ensure that the programs are robust and will be able to cover any increased demand. Cost sharing for telehealth services shall not be more than for in-person services.
6. Access to prescription drugs: If supply chain disruptions result in shortages of medications that are on a carrier's formulary, the carrier must act promptly to make substitutes available when necessary, at no greater cost to the patient and without imposing prior authorization or step therapy requirements. Carriers shall also allow enrollees to obtain refills of their prescription medications before the scheduled refill date, so that enrollees are assured of maintaining an adequate supply. Exceptions may be made for drug classes subject to misuse, such as opioids, benzodiazepines, and stimulants. Carriers shall also waive any additional cost to the enrollee of any fees associated with accessing prescriptions from a mail-order pharmacy.
7. Utilization review: When dealing with limited resources or unusual demand for health care services, carriers must prioritize the timely delivery of medically necessary services to enrollees. Both for services related to COVID-19 and any other care that their enrollees might need, carriers must conduct any applicable utilization review and appeal processes as expeditiously as possible.
8. Communication: Timely access to accurate information and avoiding misinformation are critical. Carriers shall give prompt notice to enrollees, providers, and the public of the measures they are taking to respond to the COVID-19 threat, including measures taken to comply with the terms of this order. Carriers shall ensure that the information shared is updated on an ongoing basis to remain current and accurate. Carriers must provide clear and prominent notice that they are waiving cost-sharing for medically necessary screening, testing and treatment for COVID-19, include links to DC Health's website and guidance in their communications and on their website, and that early prescription refills are

permitted. This notice must be posted prominently on the carrier's website, provided to all customer service personnel and all nurse help-lines and similar programs, and delivered to all network providers and facilities. Carriers shall provide the Commissioner with copies of all notices.

9. Terminations: Carriers shall not cancel or non-renew any health benefit plan without express consent from the Commissioner.

Date: March 20, 2020.

A handwritten signature in black ink, appearing to read 'KW', is written above a horizontal line.

Karima Woods
Acting Commissioner
Department of Insurance, Securities and Banking