The State of Maryland

Executive Department

ORDER

OF THE

GOVERNOR OF THE STATE OF MARYLAND

NUMBER 20-03-20-01

AUTHORIZING REIMBURSEMENT OF AUDIO-ONLY HEALTH CARE SERVICES

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, 2020, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency continue to exist;

WHEREAS, Health care providers are needed to respond to the state of emergency and catastrophic health emergency;

WHEREAS, To respond to the state of emergency and catastrophic health emergency, health care providers must be permitted to deliver health care services at sites other than the sites at which patients are located;

WHEREAS, It is necessary that health care providers licensed, certified, or otherwise authorized by law to provide health care services be permitted in Maryland to provide those services through audio-only calls or conversations, but that such providers are held to the same standards of practice that are applicable to in-person health care settings;

WHEREAS, To enable the use of interactive audio telecommunications or electronic technology to deliver health care services, and protect the public health, welfare, and safety, it is necessary to suspend certain State and local statutes, rules, and regulations regarding reimbursement for health care services delivered through audio-only calls or conversations;

WHEREAS, To expand the use of telemedicine to deliver health care services, and protect the public health, welfare, and safety, it is necessary to suspend certain State and local statutes, rules, and regulations regarding confidentiality during use of various video and telecommunications applications and products; and

WHEREAS, It is necessary during the state of emergency and catastrophic health emergency that health care providers be authorized to, through audio-only

calls or conversations, perform clinical evaluations, refer patients to health care services, provide treatment, and issue prescriptions;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. The Secretary of Health may authorize a health care provider enrolled in the Maryland Medical Assistance Program or in a program of the Behavioral Health Administration to use audio-only calls or conversations with medical assistance or behavioral health service recipients ("recipients") to deliver health care services at a site other than the site at which the recipient is located, provided that:

a. The health care services delivered are clinically appropriate and within the scope of practice of the health care provider;

b. The health care provider:

i. Is licensed, certified, or otherwise authorized by law to provide health care services to recipients in the State;

ii. Verifies the identity of the recipient receiving health care services;

iii. Discloses to the recipient the health care provider's name and contact information, and the type of health occupation license held by the health care provider;

iv. Obtains oral or written consent from the recipient or from the recipient's parent or guardian if such consent is legally required;

v. Documents in a recipient's medical record the health care services provided by audio-only call or conversation, according to the same standards used for in-patient health care services; and

vi. Abides by all laws regarding a patient's right to the patient's health information;

c. The exchange of information between a recipient and health care provider occurs in real time; and

d. The recipient can interact with the health care provider at the time the health care service is provided to the recipient.

II. The Maryland Medical Assistance Program shall not reimburse, in accordance with the requirements of Title 15, Subtitle 1 of the Health-General Article of the Maryland Code ("HG"), health care providers for audio-only calls or conversations to deliver health care services if the health care provider has violated this Order.

III. The Behavioral Health Administration shall not reimburse, in accordance with the requirements of HG Title 7.5, Subtitle 2, health care providers for audio-only calls or conversations to deliver health care services if the health care provider has violated this Order.

IV. This Order remains effective until the state of emergency has been terminated and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.

V. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order, including HG § 15-105.2, is hereby suspended.

VI. The effect of HG §§ 4-301 to 4-309 is hereby suspended in connection with the provision of health care services through audio-only calls or conversations, or telemedicine as defined in HG § 15-105.2.

ISSUED UNDER MY HAND THIS 20TH DAY OF MARCH, 2020, AND EFFECTIVELY IMMEDIATELY.

Lawrence J. Hogan, Jr.
Governor