CHRISTOPHER T. SUNUNU
Governor

STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR

Emergency Order #30 Pursuant to Executive Order 2020-04 as Extended by Executive Order 2020-05

Temporary requirements regarding healthcare provided in alternative settings

Pursuant to Section 18 of Executive order 2020-04 as Extended by Executive Order 2020-05, it is hereby ordered, effective immediately, that:

1. In order to protect the public's health and facilitate the scaling up of acute care services in preparation for an expected surge in severe COVID-19 cases, hospitals across the state are implementing their emergency preparedness plans to treat patients in alternative care sites (ACS), or to transfer or divert patients to other hospitals based on current capacity. Examples of an ACS may include schools, auditoriums, convention centers, as well as health care provider organizations such as ambulatory surgical centers, nursing facilities, or rehabilitation hospitals typically serving patients receiving elective procedures or non-acute care.

2. In order to support this effort, to assure timely and appropriate reimbursement for services delivered in ACSs or provided to transferred or diverted patients, and to promote and secure the safety and protection of the people of New Hampshire, all health insurance carriers regulated by the New Hampshire Insurance Department, all health benefit plans authorized under RSA 5-B, and all Medicaid Managed Care Organizations covering New Hampshire residents, are hereby required to consider all medically necessary, covered ACS services, or services provided to transferred or diverted patients, as in-network and to reimburse such services at the in-network rate. If the treating provider is out-of-network, reimbursement shall be made at the transferring or diverting provider's in-network rate. Providers who are out-of-network and reimbursed as in-network under this Order shall not balance bill the member.

3. In addition, acute care services being delivered at ACSs, including step-down facilities, rehabilitation hospitals, skilled nursing facilities, nursing facilities, ambulatory surgical centers, schools, auditoriums, convention centers and all similar environments, shall continue to be coded and reimbursed as acute care regardless of the non-traditional setting. Transfers of patients for

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non-acute care services to a lower level of care setting, typical during a regular course of treatment, are not subject to the terms of this Order.

4. As it is anticipated that many non-COVID acute care patients may be transferred or diverted to ACSs or other hospitals, the requirements of this Order shall apply whether or not the member is being treated for COVID-19.

5. All carriers shall ensure that rates of payment to providers for services delivered in non-standard settings or as a result of a transfer or diversion of the patient pursuant to a hospital's emergency preparedness plan, are not lower than the rates of payment established by the carrier for such services delivered in the traditional setting, and shall notify providers of any information or instructions necessary to facilitate billing for such ACS services.

6. The requirements contained in this Order shall be effective beginning today, April 9th, 2020 and shall remain in effect until rescinded, or until the State of Emergency is terminated, whichever happens first.

7. The Department of Health and Human Services shall, as necessary, provide assistance and guidance to Medicaid Managed Care Organizations in the interpretation and implementation of this order. The Insurance Department shall provide further guidance to health carriers regulated by the Department as necessary to effectuate the purposes of this Order and shall be authorized to enforce this Order as it affects such entities.

Given under my hand and seal at the Executive Chambers in Concord, this 9th day of April, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.

Chris T. Sununu

GOVERNOR OF NEW HAMPSHIRE

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