GUIDANCE ON USE OF TELEHEALTH IN THE DISTRICT OF COLUMBIA

March 12, 2020

Recently Congress passed an 8.3 billion emergency funding measure to address the spread of COVID-19 in the United States. Part of this legislation included a provision waiving restrictions on telehealth services for Medicare beneficiaries. Telehealth is an invaluable tool in slowing the spread of COVID-19, as it reduces unnecessary physical contact and allows for practitioners to cover a wider range of patients during a time of potential strain on our healthcare system. While both patients and practitioners are encouraged to utilize telehealth services to help slow the spread of COVID-19, the District of Columbia Department of Health (DC Health) wants to remind everyone that such utilization of telehealth must be done in accordance with acceptable standards of care. Therefore, DC Health is issuing this guidance on the use of telehealth services in the District of Columbia.

Generally speaking, telehealth refers to the overall practice of healthcare to provide patient care, treatment or services, between a licensee in one location and a patient in another location with or without an intervening healthcare provider, through the use of health information and technology communications, subject to the existing standards of care and conduct. Telehealth can also include specific types of practice, such as telemedicine, telenursing, telepsychology, and many others. While the only licensing regulations governing the practice of telehealth exist as they pertain to the practice of telemedicine[1], ***currently telehealth services are permissible in the District of Columbia,*** pursuant to a few caveats.

1. *Licensure*
   The use of telehealth does not eliminate the requirement for licensure. The practice of your healthcare profession occurs where the patient is located, so any practitioner providing telehealth services to patients located in the District of Columbia must be licensed in the District of Columbia by their appropriate licensing board. DC Health realizes that many practitioners located in the District may provide services to patients located outside the District; in such circumstances, practitioners should check with the jurisdiction where the patient is located to determine what, if any, type of licensure is required to treat that patient. Prescribing controlled substances must also be in accordance federal laws which are more restrictive than the District requirements.

   In the case of a public health emergency, the Mayor of the District of Columbia has the authority to waive licensure requirements for healthcare practitioners so they may practice their profession in the District. Such a declaration would only address treatment of patients in the District, not other jurisdictions like Maryland or Virginia. Practitioners are encouraged to check with the relevant state licensing authority as to what licensure requirements will apply during a public health emergency.

2. *Standard of Care*
   Telehealth services are viewed as another tool to be used by healthcare providers, similar to an x-ray machine or MRI, and not as a new type of healthcare practice. Because of this, telehealth services can be utilized by any practitioner, for any services, ***assuming such services are provided in accordance with acceptable standards of care***. In other words, if a certain healthcare service requires a detailed examination, and such examination can be accomplished via the use of telehealth, then it is allowed. If such an examination cannot be accomplished via telehealth, then it is below the standard of care to do so.

[1] see 17 DCMR § 4618 (https://www.dcregs.dc.gov/Common/DCMR/SectionList.aspx?SectionNumber=17-4618)

For new patients, it is possible for a practitioner to establish a practitioner-patient relationship via the use of real-time telehealth.

3. *Reimbursement*
   Telehealth services are generally reimbursable by most insurance carriers, and Medicaid covers any services for which in-person services would also be covered. However, there may be limitations on the method in which telehealth services are provided. Both patients and providers are strongly encouraged to check with their insurance carriers to determine costs and coverage before utilizing any telehealth services. This is especially important regarding COVID-19, as some insurance carriers are modifying their plans or waiving co-pays for services which were previously not covered. Additionally, should a public health emergency be declared, certain limitations on insurance coverage may change. Providers and patients are encouraged to check with not only their insurance carrier, but also the District of Columbia Department of Insurance, Securities and Banking (DISB), the District of Columbia Health Benefit Exchange (HBX), and the Department of Health Care Finance (DHCF).

It should be noted that the above guidance is only applicable to the current statutory and regulatory environment. As demonstrated by the recently enacted federal 8.3 billion emergency funding legislation, the rules governing telehealth continue to evolve and change. Practitioners should keep themselves educated on what requirements exist related to their professions use of telehealth by routinely checking with the appropriate health professional licensing board. More information about each board can be found on our website at https://dchealth.dc.gov/service/licensing-boards.

DC Health is committed to ensuring the health, safety and welfare of all residents of the District of Columbia. To help with this effort, we encourage everyone to regularly check https://coronavirus.dc.gov/ for the most up to date information related to COVID-19.