From: Georgia Maheras
To: Georgia Maheras
Subject: Bi-State Business Implications Bulletin
Date: Wednesday, July 15, 2020 4:16:56 PM
Attachments: COVID19 Testing Services Contract for Facilities FTLF and TC Comments 6-4-20.docx
COVID19 Testing Services Contract CLEAN 6-2-20.docx

Dear CFOs and CEOs,

This email contains financial/business-focused information. As you know, Bi-State has also been sending COVID-19 bulletins to CEOs and Medical Directors for the past couple months (archive of past bulletins can be found here).

Congratulations to those of you who submitted your H8C/D/E quarterly reports last week!

Thank you to all the CFOs and CEOs who have been attending our CFO drop-in meetings. We have discussed numerous topics, including telehealth reimbursement, the uninsured claims portal, cost reports, and other topics. We are grateful that both Mary Jalbert and Denny Roberge, both of BerryDunn, were on the call to provide an auditor's perspective. Notes from the meeting on 7/10/2020 are included at the bottom of this bulletin. We plan to hold these meetings every other week moving forward (e.g., next meeting on 7/24/2020).

Bi-State has developed a few resources to track the state and federal funding/business resources. This powerpoint is a summary of the federal funding released to-date. This summary and this table provide both federal and state-specific information. These are google docs and they will always have the most up-to-date information we can find.

Toplines include: HHS continues to update their Provider Relief Fund website with allocations, the most recent of which do not apply to an organization that already received an allocation from this fund. Things change, so we encourage you to click the links for updated guidance.

Today's PSA: Reducing administrative burden: Below is a table of contents where the titles link to the section of the document within the email so you should be able to skip ahead to priority areas more easily(Ctrl + Click).

    - PPE and Testing Supplies
    - VT Staff Testing Plans
    - Employer Face Covering/PPE Survey
    - Workers' Compensation
- Vermont Funding
    - VT Health Provider Stabilization Funding (CARES Act Relief Funds)
    - VT Hazard Pay
- Meeting Notes

Thanks for all that you do and please let us know if you have any questions or comments,
Georgia

GENERAL

FTCA and Use of 330 Funding for Non-Health Center Patients

Early on, there seemed to be some lack of clarity about whether health centers could use 330 funds (including H8C/D/E) and their FTCA coverage to provide testing to non-health center patients. BPHC has not specifically answered that question in the FAQs (though it is has been answered affirmatively during multiple webinars). There's a new FAQ that answers this question and provides guidelines about how a health center can limit services if its capacity is limited.

> **NEW Can health centers limit the availability of COVID-19 testing to individuals who are established health center patients?**
>
> Health centers should provide COVID-19 testing services to established patients and other individuals who present for such services and meet criteria for COVID-19 testing, regardless of ability to pay. Criteria for testing should be informed by CDC guidelines on testing for SARS-CoV-19, as well as by state, tribal, or local public health guidance.
>
> If a health center does not have sufficient capacity to test beyond its established patient population (e.g., limited Personal Protective Equipment (PPE), testing supplies, or staff capacity), then the center should make efforts to refer patients to other appropriate providers.
>
> For PPE and testing supply needs, health centers should communicate and coordinate with state, tribal, and local health departments and Primary Care Associations in their state, in addition to reporting these needs in the weekly HRSA Health Center COVID-19 Survey.

Podcast: Policy in Plainer English – Telehealth Series is Complete!

The Policy in Plainer English Season 2, which focuses on Telehealth, is now complete! The Season 2 Telehealth Podcasts include:

- Telehealth Reimbursement & COVID-19
- Telehealth and the Telephone
- Telehealth and the Telephone Epilogue – CCM
- Broadband for Telehealth
- Telehealth Reimbursement & COVID-19 Part Two
- Teledentistry
- Telehealth and Provider Consultations
- Telehealth and Global Budgets
- Transportation and Telehealth
- Telehealth in the Time of COVID-19 – Season Finale

Season One is all about value-based care.

Weekly Health Center Survey

Each week HRSA (BPHCAnswers@hrsa.gov) sends an email to the Health Center Project Director that includes a link to the weekly survey. The link for the survey is actually the same every week. Health centers can use that link to quickly access the survey during the open period (Fridays beginning at 5:00 p.m. ET-Tuesdays at 11:59 p.m. ET).

Sample Testing Contract MOUs – Courtesy of Missouri PCA

Bi-State's sister PCA in Missouri has shared two model COVID19 testing services agreements prepared by Feldesman Tucker and Thompson Coburn (a MO-based attorney). There is also an informed consent for COVID-19 Testing document for the patient to sign.

The MO PCA notes that you will see comments and questions from the attorneys contained within. Since one size does not fit all, staff feel these questions should be handled by you at the local level.

- The first agreement is intended to be used for agreements with companies such as meat packing plants, etc.
- The second agreement is intended to be used for testing at facilities such as long-term care facilities, residential care facilities, etc.

Concerning Developments in 340B Reimbursement and Contract Pharmacy

NACHC is concerned about three recent developments involving 340B:

1. Drug manufacturer Eli Lilly recently announced that it will no longer provide 340B-priced Cialis to contract pharmacies, raising questions about whether they are legally required to do so.
2. On Monday July 6, 2020, drug manufacturer Merck sent a letter to all 340B providers requesting that they submit data on all Merck pharmaceuticals that were purchased at 340B prices and dispensed by contract pharmacies. While this is officially a voluntary effort, Merck states that failure to participate may lead them to take steps that are "less collaborative, and substantially more burdensome". *Please do not provide information at this time.*

NACHC policy and advocacy staff are working closely with other 340B provider groups, legal experts, and the NACHC 340B Strategic Advisory Group to determine the most effective response. Bi-State is participating in a call with NACHC this week on next steps. Stay tuned for more information.

FEDERAL FUNDING RELATED:

Provider Relief Fund Information

In addition to Bi-State's documents (above) and NACHC's summary table, McDermott Consulting has developed and shared a handy table that compares terms, funding amounts, etc., for several of the HHS Provider Relief Fund targeted distributions.

The CARES Act includes a $100 billion provider relief fund (and Stimulus #3.5 added $75B to this fund). As you know, HHS released FAQs, found here, that have additional guidance around calculating this lost revenue. The main website for this program continues to be updated and we encourage you to review it frequently. HHS continues to disburse funds from the $50B General Allocation (based on the data you submitted into the portal). HHS recently released funds for Acute Care Facilities and opened up the opportunity for dental practices to receive an allocation. As with the Medicaid/CHIP funds, if you have already received an allocation from this fund, you are ineligible to receive the dental allocation.

COVID-19 Uninsured Claims Portal

FQHCs and other providers should be billing the HRSA uninsured portal reimbursement for conducting COVID-19 testing or providing treatment for uninsured individuals with a COVID-19

diagnosis. Health Center Program requirements include an obligation under section 330(k)(3)(F) for health centers to make "every reasonable effort to collect appropriate reimbursement for its costs in providing health services" from potential payors (see also [Chapter 16: Billings and Collection, Health Center Compliance Manual]). Health Centers are also required to provide financial and budget information relating to nongrant fund program income. These requirements do not impact a health center's eligibility to submit reimbursement claims to the Uninsured Program.

In accordance with the requirements of the Uninsured Program, in order to seek reimbursement, a health center must agree to the following as attested at registration:

- You will accept defined program reimbursement as payment in full.
- You agree not to balance bill the patient.

Unemployment Insurance Claims

One of our health centers noted that their UI benefit is self-funded and wanted to know whether any of the funding streams could be used to fund the payment they will need to make. Mary Dowes from BerryDunn said that from her perspective the Provider Relief Fund (i.e., the HHS stimulus money) and the PPP will cover this. Additionally, if health centers have this benefit in their 330 grant budget, the 330 funding should cover UI (and workers' comp). The only caveat with the PPP is that that program can only be charged against moving forward, so it can't be used retroactively.

Paycheck Protection Program

The SBA continues to release guidance around the forgiveness component of this program on a regular basis. Check out this website for more details.

NEW HAMPSHIRE- GENERAL RESOURCES:

General NH COVID-19 Business Resources:

COVID-19 NH business resources can be found here. Information about your insurance coverage, unemployment insurance, loans, etc. are all on this page.

NEW HAMPSHIRE-FUNDING RESOURCES:

NH CARES Act Allocations

A review of federal COVID-19 funds allocated in NH, as of 7/9/20, is available here.

Stabilization Payment Request to NH DHHS

Medicaid stabilization funds will flow through MCO contracts over the next few months. All entities eligible for the Medicaid stabilization payments, aka Medicaid directed payments, should have received a letter from NH DHHS via USPS detailing the amount to which each entity is entitled. Please contact Kristine Stoddard if you have if you have any questions.

NH Health Care System Relief Fund

We continue to be hopeful that these funds will convert from a loan to a grant. The state has indicated that: "Under the initial $50 million allocated to the CEHSRF, loans have been made or offered to frontline providers. GOFERR and the CEHSRF team will review these loans for compliance with the CRF funding criteria, as well as whether the loan is eligible for early conversion to grants." More information about this fund can be found here.

VERMONT-GENERAL RESOURCES:

PPE and Testing Supplies

There was a great conversation with the State SEOC about PPE on 6/30. A reminder of the process: The state request forms are found on the Bi-State website, in your COVID-19 twice-weekly bulletins, and at this link.

Once you fill out a request you should receive three things:

- An auto-reply acknowledging receipt.

- An email from the state within 24-48 hours (except weekends) explaining how your order is being filled.
- Most of the time an additional follow-up call to check in on how your facility is doing with supplies.

The Agency of Transportation is handling delivery, with a turn around under 3 days.
The form is only intended to be used once every 14 days, however if something happens and you're going to run out before that 14 day period is through, definitely reach out and explain the situation and the state will work with you.

VT Staff Testing Plans

AHS has provided initial feedback on some of the staff testing plans that had been submitted to the state. AHS summarizes: *While reviewing all submitted plans, we identified several common questions, including insufficient information pertaining to some of the requirements. We offer the following clarifying guidance and ask that you update your plan as needed to meet this guidance. You will not need to resubmit your plan.*

1. *Plans should indicate the number of providers and staff to be tested monthly via a random sampling methodology.*
2. *No fewer than 2% of all health care providers and staff should be tested monthly.*
3. *Plans should state a clear return-to-work policy for those that test positive. This policy should follow current CDC guidance: https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html.*

With this feedback, AHS has set the monthly staff testing floor to be no fewer than 2% of health care providers and staff, which is a lower number than has previously been assumed.

Employer Face Covering / PPE Survey

Several industry groups (Vermont's Regional Development Corporations, Associated Industries of Vermont, the Lake Champlain Chamber, the Vermont Chamber of Commerce, the Vermont Retail & Grocers Association, the Vermont Vehicle & Automotive Distributors Association, and other business organizations) have collaborated on a survey to help inform ongoing efforts to assist Vermont employers in securing the masks/face coverings and other PPE they want and need. Health centers are invited to submit responses:
https://www.surveymonkey.com/r/VERMONTFACECOVERINGSURVEY.

Workers' Compensation (S. 342)

A new bill related to workers' compensation was enacted this week (see the Governor's Signing Letter here). This law creates a presumption of compensability for any frontline worker who contracts COVID-19 from March 1, 2020 – January 15, 2021. This is *both* an assumption that the illness was contracted at work and *also* a requirement for workers compensation to assume the associated costs instead of pushing them to health insurance and/or expanded unemployment under any force majeure clause. The definition of frontline is broad, including "(iv) a worker in a health care facility or in an institution or office where health care services are provided by licensed healthcare professionals."
The presumption of compensability will not apply if the employer can prove that COVID-19 was contracted through non-employment risk factors or exposure. Note that this is a different threshold than for non-frontline workers, where the employer must simply prove that they were in compliance with the existing guidance on workplace safety and COVID-19.

VERMONT-FUNDING:

VT Health Provider Stabilization Funding (CARES Act Relief Funds)

$275 million was approved in the Health Provider Stabilization Fund, as part of a larger $326.8 million coronavirus health & human services bill. The allocations will be distributed through a grant process with determinations focused on immediate financial need and unavailability of federal funding sources to meet that need. The prioritization methodology as outlined in the Legislation:

(A) the impact of the grant amount on the applicant's sustainability, not the applicant's size or its proportion of health care spending in this State;

(B) the degree to which the grant will provide or support services that would otherwise likely become limited or unavailable as a result of business disruptions caused by the COVID-19 public health emergency, including to sustain existing population health management programs, or the grant funds would enable the applicant to withstand and recover from business disruptions caused by the COVID-19 public health emergency, or both;

(C) the degree to which the applicant would use the grant funds to support existing patient financial assistance programs or to enable the applicant to continue providing services to Medicaid beneficiaries, or both;

(D) the degree to which the applicant maintains participation in value-based payment arrangements, if applicable;

(E) the degree to which the applicant appears capable of making appropriate and efficient use of the grant funds; and

(F) any financial assistance an applicant has received from other sources.

AHS notes that interested parties can **sign up to receive an e-mail as soon as the applications open, by completing AHS's online form.** More information about the specifics of each program is available on our COVID-19 Information and Resources Page. *There is also a webinar on 7/20 at 6pm (info will be here).*

VT Hazard Pay (previously S.346, now H. 965 Sec 6/Act 136)

The intent of this legislation is to provide bonuses to employees who worked at elevated risk of COVID-19 exposure. A few key bullet points on who receives this hazard pay:

- It is in grant format, employers will have to apply to AHS for the funds in a lump sum.
- FQHCs and other health care facilities may apply.
- It will be dispensed on a first come, first served basis. We do not yet have the application form.
- Covers work from March 13 – May 15, 2020, work must have been at least 68 hours during that time period. Note: this is *only* hours worked on the front line, remote work does not count towards the total.
- Employees must be making hourly base wage less than $25 (except in home health agencies and nursing homes).

- Employee must not have collected unemployment insurance benefits for any week in the covered time period, or be eligible to receive benefits for job performance under another federal government program (for example, a HEROES Act-type program).
- Employee performed a job with elevated risk of contracting COVID-19 and had no remote option for performing that job – see above re: calculating hours worked.

Employers apply for a lump sum, and may distribute $2000 to an employee who worked at least 216

hours in a job with an elevated risk of exposure to COVID-19 between March 13, 2020 through May 15, 2020, and $1200 for an employee who worked at least 68 hours and less than 216 hours in a job with an elevated risk. The payments will not be considered for calculation of state benefits, but are subject to income tax. Employers may deduct payroll taxes from the amount paid.
Bi-State believes this application will be available in August. AHS notes that interested parties can **sign up to receive an e-mail as soon as the applications open, by completing AHS's online form.** More information about the specifics of each program is available on our COVID-19 Information and Resources Page.

MEETING NOTES:

CFO Meeting Call Notes (7/10/2020)

Georgia Maheras (abbreviated GJM) began the call with several key points.

1. The FCC Telehealth Program is now complete. The final set of awards has been announced, and no further applications will be accepted or funded at this time. However, there will be telehealth/broadband money available in both states, so we'll be sending that along when available.

2. Regarding the HRSA Uninsured Claims Portal for testing and other services related to COVID-19 (screening, testing, treatment) – NACHC indicates that there is an obligation for FQHCs to bill this portal before trying to use grant dollars to cover services for uninsured patients (this has to do with Chapter 16 of the Compliance Manual, which includes language such as, "The health center must make and continue to make every reasonable effort to collect appropriate reimbursement for its costs on the basis of the full amount of fees and payments for health center services without application of any discount when providing health services to persons…" Health centers can use the Uninsured Claims Portal to bill for asymptomatic uninsured patients (for surveillance too!). (Georgia added, after the call, that the time period for this portal is 365 days. This may seem like a lot of time, but claims must be complete upon submission, you can't add to them later.)
The HRSA Uninsured Claims Program (UCP) does reimburse for COVID-19 tests (& the associated visit) provided to uninsured patients who are asymptomatic and/or whose test results are negative -- but you must include a special "Z" code on the claim in order to be reimbursed. As stated in the UCP FAQs, claims for testing and testing related visits will be reimbursed "if one of the following diagnoses codes is included in any position on the claim:"
   - Z03.818 - Encounter for observation for suspected exposure to other biological agents ruled out (possible exposure to COVID-19)
   - Z11.59 - Encounter for screening for other viral diseases (asymptomatic)
   - Z20.828 - Contact with and (suspected) exposure to other viral communicable (confirmed exposure to COVID-19)

GJM then asked, have you delayed/changed capital projects as a result of COVID-19? Multiple health centers noted that projects had been delayed and/or changed. Particularly health centers noted that they are now rethinking space needs (and the need for different types of space) in light of the growth of telehealth. One health center is delaying a renovation for a first dental site and notes that the configuration will be very different from what was originally envisioned, but the health center is

pleased because they can "build it right."
Mary Jalbert and Denny Roberge, both of BerryDunn, were also on the call to provide an auditor's perspective.
One FQHC noted relief that HRSA truly had made the H8C/D/E reporting simple and streamlined.
GJM reminded everyone that we still don't know the HHS Provider Relief Fund reporting deadline, but Bi-State will share that information when it is announced. Georgia also reminded everyone that the FTCA deeming application is due on 7/13/2020.

State-Specific Relief Programs

Vermont:

Helen Labun provided an update on the VT Provider Stabilization Funding. She noted that the parameters were outlined in the legislative update that VT Members received earlier in the week, but that they can be summarized as immediate financial need (e.g., disruption of services, disruption of patient access to services). AHS has engaged a consultant to make sure implementation is compliant. The application will open next week. It will not be first-come first-serve; health centers will have around a month to submit the application. It will have an all-payer focus (and not just be specific to Medicaid). Applications must be for the entire entity (you can't split off dental). Funding will be retrospective only, but will be offered in two rounds to get in as many months as possible. Round One will look back to the period of March 1st through June 15th; Round Two, to June 16th through September 30th (and will have an October application deadline). Bi-State has requested that AHS have the calculation prorate any accounting of federal funds received (which we were told to "make this last for the next year," but we are not optimistic that this will happen (and the matter should be clarified when the application is released next week).
Helen also noted that the VT Hazard Pay applications will be ready in August.

New Hampshire:

Georgia noted that the NH Health Care Provider Relief Fund announced some initial grants this week. Bi-State is still requesting that the earlier loans be converted into grants. Georgia also noted that we are also still waiting for more information about the SUD funding that Governor Sununu announced would be available.

Telehealth Reimbursement

There have been some telehealth reimbursement questions that have come to Bi-State's attention. Georgia framed up the questions, and BerryDunn, Helen Labun, and others responded.
Q: How do you differentiate between audio-codes 99441 (which is now bundled into G2025) and G2012 (which is bundled into G0071)? There's a significant pay difference between these two codes, yet their descriptions are essentially the same.
A (BerryDunn): The only difference is one's a CPT and one's a HCPC code. If you meet the criteria, bill the 99441.
A (Helen Labun): That same answer was just provided at the national telehealth conference I am currently attending.

Q: What happens to the frequency limitations and the 'not connected to another E/M service' limitations on 99441-99443 (which Medicare is using for its audio-only option) when they're bundled into a G2025? I think there was a hope that they would eliminate the frequency limitation for the audio-only codes.
A (BerryDunn): They don't necessarily care. They made it kind of easy there.
A (Helen Labun): After July 1 there is no way to report that specificity, and that we should not expect

Medicare to come back and say "prove to us you weren't using the telephone more frequently than once every 7 days.

Q: How do you code for a mental health and a non-mental health visit performed on the same day but remotely, when G2025 bundles everything yet can't be billed more than once a day?
A (BerryDunn): There are separate revenue codes for medical (500-series rev code) and mental health (900 rev code). So CMS will know that they are separate.

Helen asked whether anyone had been successful in getting the two codes in one day to process. Denny Roberge of BerryDunn said that some of the MACs had been successful with this. Kris McKracken confirmed that Amoskeag has been able to bill for both a medical visit and a behavioral health visit on one day.

Q: What is 'incident-to' billing for FQHCs?
A (FQHC): We do this for MSWs and PAs. You use the supervising provider's code and delineate who the rendering provider is and who the billing provider is.
Helen noted that in telehealth there is an expanded list of providers who can bill directly and no longer need to bill as 'incident-to' for reimbursement. One FQHC noted that you have to be careful so as not to mess up your cost report (you have to do time and effort reporting so sift out nurse staffing that supports telehealth), and Mary Jalbert of BerryDunn confirmed that she has concerns that the recordkeeping side that this will be of interest to CMS. Additionally, CMS has indicated they will not use telehealth information from cost reports in the annual rate setting process, however Bi-State is monitoring this to ensure it does not impact future Medicare PPS rate-setting.

Cost Reporting

Q (FQHC): Do VT FQHCs still need to submit cost reports to Medicaid for medical services?
A (FQHC): No. This was one of the changes when we negotiated the PPS/APM with DVHA in 2017/2018.
A (GJM): Cost reports are still needed for dental, because of the state's parallel reimbursement for dental.

Q (FQHC): VT says it doesn't need the cost reports, but Myers Staufer still says they want it?
A (GJM): We will research this further. We will also look into a future deeper dive into cost reports at one of these CFO meetings.

Other Questions and Information

Q (FQHC): When will we know more about Budget Period Renewal submissions and deadlines?
A (Kate Simmons): Soon. HRSA was working to get the NOAs out to extend project periods, but the Budget Period Renewals will be coming out soon. HRSA has said that they will be "streamlined."
Mary Jalbert (BerryDunn) also noted that if anyone did not receive a PPP loan, there is still money remaining, and the deadline was extended to 8/8/2020. She also noted that BerryDunn is continuing to follow the Provider Relief Fund guidance. The reporting deadline was extended because they are still working on definitions. The compliance supplement is expected in September.

Q (VT FQHC): If I have a staff person who tested positive and is asymptomatic, how long before they are allowed to come back to work?
A (GJM): This is an area where VT and NH are different.

A (Helen Labun): There are multiple ways to bring them back, please see the HAN: https://www.healthvermont.gov/sites/default/files/documents/pdf/COVID-19-HAN-PersistentorRecurrentSARS-CoV-2PCRAssays.pdf
A (FQHC): Look at the specific CDC guidelines. I would keep them away from work for 14 days. If they still test positive and are asymptomatic, I would think more. I would call your contact at VDH.

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