



*The Chehardy Sherman Williams Healthcare Practice Group is constantly monitoring the way the COVID-19 Pandemic is affecting the industry.*

## ***CDC Issues Guidance Memo on Billing and Coding Relating to COVID-19***



The purpose of this document is to provide official diagnosis coding guidance for health care encounters and deaths related to the 2019 novel Coronavirus (COVID-19) previously named 2019-nCoV. This guidance is intended to be used in conjunction with the current ICD-10-CM classification and the ICD-10-CM Official Guidelines for Coding and Reporting (effective October 1, 2019) and will be updated to reflect new clinical information as it becomes available.

For more information and the guidance, please [click here](#).

***LAMMICO Issues Practice Management Guidance on Billing and Coding relating to COVID-19***

The information pertaining to the authorization, coding, billing, third-party payer issues and payment related to COVID-19 is scattered across many websites. The document provides by LAMMICO as of March 24, 2020 highlights some specific information and provides links to the resources.

To read the article, please [click here](#).

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### ***Louisiana Department of Insurance Emergency Rule for Telemedicine and Network Adequacy***

On March 23, the Louisiana Department of Insurance (LDI) issued Emergency Rule 37, which provides for telemedicine and network adequacy in health insurance during the COVID-19 outbreak. The Emergency Rule: **1)** waives network adequacy requirements for health plans if they comply with the provisions of the emergency rule; **2)** requires health plans to waive any limitation on the use of audio-only telephonic consultations in the provision of telemedicine services, including the use of personal devices, to the extent permitted under federal guidance issued by the Office for Civil Rights at the Department of Health and Human Services; **3)** requires health plans to waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network and any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine; **4)** requires health plans to waive any requirement limiting coverage to provider-to-provider consultations and cover mental and acute care health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation; and **5)** requires health plans to evaluate differences in cost-sharing responsibilities for their insureds seeking in-network and non-network care for the duration of this event and take appropriate steps to ensure that patients in areas in which in-network surge capacity is exceeded are not subject to unreasonable cost-sharing requirements due to access limitations. Emergency Rule 37 is effective until April 9, 2020 unless extended by the Department.

To read the Emergency Rule, please [click here](#).

### ***HHS Secretary Declares Liability Immunity for Certain COVID-19 “Countermeasures”***

On March 17, 2020, the Secretary of Health and Human Services (“HHS”) issued a PREP Act Declaration providing immunity from tort liability for manufacturers, suppliers, and health care professionals and others who manufacture, distribute, use, prescribe, administer, or dispense certain products to combat COVID-19. The Declaration is intended to encourage innovation and rapid development and adoption of necessary drugs and devices to prevent, diagnose, and treat COVID-19 by providing protection from potential liability. The Declaration provides “Covered Persons” immunity from tort liability under federal and state law, and in federal and state courts, against any claim or loss caused by, arising out of, relating to, or resulting from the manufacture, distribution, administration, or use of a “Covered Countermeasure.” Immunity from tort liability means there is no legal claim against a Covered Person for any type of loss including death; physical, mental, or emotional injury; fear of injury; property damage or loss; or business interruption loss with any causal relationship to any phase of development or use of Covered Countermeasures. The only exception is for willful misconduct.

#### **The Declaration provides immunity to “Covered Persons,” which include:**

- licensed health professionals or other individuals authorized to prescribe, administer, or dispense Covered Countermeasures under the law of the state in which the Covered Countermeasure was prescribed, administered or dispensed;
- individuals and entities authorized in accordance with the public health and medical emergency response to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, contractors, employees and volunteers.
- manufacturers and suppliers, including their contractors and subcontractors, of Covered Countermeasures and their component parts; and
- federal, state and local governments.

“Covered Countermeasures” are any authorized antiviral, drug, biological product, or device used for the diagnosis, prevention, treatment, or cure of COVID-19, or the transmission of SARS-CoV-2 or any virus mutating therefrom. Covered Countermeasures must be either approved, cleared and licensed by the FDA; authorized for investigation use, such as an Investigational Drug Application or Investigational Device Exemption; or permitted to be used for emergency use under federal law.

The Secretary’s PREP Act Declaration thus supports innovation in the response to COVID-19 by providing manufacturers, suppliers, and healthcare providers with immunity from liability with respect to the manufacture, distribution, or use of certain COVID-19 Countermeasures.

## *Trump Administration Engages America's Hospitals in Unprecedented Data Sharing*



On March 30, 2020, the Centers for Medicare & Medicaid Services (CMS) sent a letter to the nation's hospitals on behalf of Vice President Pence requesting they report data in connection with their efforts to fight the 2019 Novel Coronavirus (COVID-19). Specifically, the Trump Administration is requesting that hospitals report COVID-19 testing data to the U.S. Department of Health and Human Services (HHS), in addition to daily reporting regarding bed capacity and supplies to the Centers for Disease Control and Prevention (CDC) National Healthcare Safety Network (NHSN) COVID-19 Patient Impact and Hospital Capacity Module.

For a copy of the letter, please [click here](#).

### *COVID-19 EMTALA Waiver*

Following President Trump's proclamation on March 13, 2020, that the COVID-19 pandemic in the United States constitutes a national emergency, the Department of Health and Human Services (HHS) issued a Waiver or Modification of Requirements under Section 1135 of the Social Security Act, which includes a waiver of certain Emergency Medical Treatment and Labor Act (EMTALA) sanctions that is limited in scope. Further, on March 9, 2020, the Centers for Medicare & Medicaid Services (CMS) issued guidance to State Survey Agency Directors regarding EMTALA requirements and implications related to COVID-19 to ensure compliance with all non-waived EMTALA obligations.

Hospitals operating under an EMTALA waiver will not be sanctioned (1) for the direction or relocation of an individual to another location to receive medical screening pursuant to an appropriate state emergency preparedness plan or (2) for the transfer of an individual who has not been stabilized if the transfer is necessary due to the declared COVID-19 federal public health emergency.

#### **The EMTALA waiver applies to a hospital if all the following conditions are met:**

- The hospital must not discriminate based on an individual's source of payment or ability to pay;
- The hospital must activate its disaster protocol; and
- The state must have activated an emergency preparedness plan or pandemic preparedness plan in the emergency area, and any redirection of individuals for a medical screening examination (MSE) must be consistent with its plan.

Should you have any specific questions or needs, please contact the  
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