

To: Members, Wisconsin Legislature
From: America's Health Insurance Plans
Alliance of Health Insurers
Wisconsin Association of Health Plans
Date: November 20, 2020
Re: COVID-19 Legislation

The COVID-19 global health pandemic remains unprecedented in both the scale and scope of its impact, which the residents of Wisconsin have felt as much as anyone. The health and well-being of Wisconsin residents is our highest priority and AHIP, AHI, and WAHP members appreciate your commitment to working to fight the pandemic. Our members are deeply committed to addressing COVID-19 in Wisconsin and continuing to provide stable, high quality health insurance coverage that Wisconsin residents can count on during these challenging times. We appreciate the opportunity to respectfully comment on the legislative proposals Governor Evers has recommended for your consideration – some of which were previously considered and not adopted by the Legislature in spring 2020.

Telehealth Coverage Mandate

Health insurance providers have undertaken significant efforts to expand access to telehealth during the COVID-19 public health emergency. When the pandemic began, health insurance providers worked quickly to implement new flexibilities offered by the federal government to ensure patients have quick and convenient access to health care services safely and conveniently.

All this was done without being required to do so by inflexible or one-size-fits-all state fiats. A state telehealth coverage mandate was proposed and not adopted in the spring, yet access to telehealth in Wisconsin has skyrocketed. In addition, the Office of the Commissioner of Insurance (OCI) recently asked health plans to follow the spirit of this proposed legislative mandate, which they are doing. *Wisconsinites have enjoyed sustained access to telehealth, all which happened without new state mandates.* In fact, health insurance providers have been able to respond to patients' telehealth needs because there has been *less* regulation of telehealth, not more. State mandates were not needed and remain unneeded to ensure timely access to care via telehealth.

Balance Billing Prohibitions

At the start of the pandemic, health insurance providers reaffirmed – by action – their long-standing commitment to maintaining sufficient provider networks so patients who need care have the peace of mind they can be properly treated by in-network providers. And insurers understand the desire that patients be held financially harmless if they must be seen by an out-of-network provider for COVID-19 diagnosis and/or treatment.

2019 Wisconsin Act 185 contained some protections against balance billing. Under Act 185, for a defined period of time, an insurer could not require an enrollee to pay more for a service or treatment provided by a non-network provider than for a service or treatment provided by an in-network provider. The enacted rate of 225% of the Medicare rate for out-of-network charges and the Governor's proposed rate of 250% of Medicare rate are simply too high. For example, under their surprise billing laws, Michigan's rate generally for uncomplicated

patients receiving out-of-network services is 150% of Medicare or the median in-network rate and California uses 125% of Medicare or the average contract rate, whichever is higher. Regulators in Massachusetts set their reimbursement rate for out-of-network providers at 135% of Medicare for COVID-related services. More recently, the federal Interim Final Rule requires insurers reimburse in and out-of-network providers for the administration of the COVID vaccine at a reasonable amount compared to prevailing market rates. Because costs vary by geographic region and types of providers, we recommend, if prohibitions on balance billing are again considered, replacing a Medicare-based payment benchmark with the health plan's median in-network rate for its geographic region. Compared to a Medicare-based rate, this would reflect what plans actually pay providers – via negotiated rates – when agreements regarding rates are entered. ***Now is not the time to adopt health care policy measures that will increase health care costs for Wisconsinites, including employer groups, by forcing plans to pay providers what could be rates significantly higher than what is typically agreed upon.*** We also recommend maintaining an explicit requirement the rate be accepted as payment in-full, with no balance bills sent to the patient, regardless of whether it is the insurer or the provider who attempts to balance bill.

COVID-19 Testing & Coverage Mandates

As noted, health insurance providers moved quickly to ensure costs are not a barrier to individuals receiving COVID-19 testing and treatment. Even before recent federal laws were passed, Wisconsin health plans proactively committed to covering, *without cost-sharing or prior authorization*, COVID-19 diagnostic laboratory testing. In addition, even while treatment protocols specific to COVID-19 were being developed (and which are still developing), health insurance providers covered COVID-19 treatment just like any infectious disease and many insurers quickly began waiving any cost-sharing for COVID-19 treatment.

Beyond these proactive industry steps, federal law now *requires* that COVID-19 diagnostic testing be covered without cost-sharing. This requirement also applies to all provider, telehealth, urgent care, and emergency room visits that lead to COVID-19 testing. In addition, under federal law, a COVID-19 vaccine will be covered without cost-sharing like any other preventive service.

There is no need for additional state action mandating coverage of COVID-19 testing or vaccines as it would duplicate existing federal requirements. Moreover, regarding coverage of COVID-19 treatments, treatments are already covered like treatments of other infectious diseases.

Prohibitions on Prescription Drug Refill Limitations

Health insurance providers have already taken action to help ensure patients, especially high-risk patients, have needed access to prescription drugs. Health insurance providers have relaxed their policies to allow for earlier refills and many have also increased supply limits of certain prescription drugs. Finally, health insurance providers are working to expedite formulary exception requests during the COVID-19 pandemic.

Health insurance providers remain concerned that blanket prohibitions on refill limitations could lead to stockpiling and, ultimately, drug shortages. This result could harm Wisconsin patients.

Supporting Coverage for Individuals and Small Businesses

It is critical individuals and small businesses have stable access to health insurance coverage during the COVID-19 pandemic and beyond. State support to help struggling individuals and businesses maintain their health insurance coverage could take the form of direct premium assistance to individuals and businesses and/or risk mitigation strategies for health insurance providers. If there is interest in such support, we would welcome the opportunity to work with you as well as any additional steps to help Wisconsin residents maintain their health insurance coverage and be insulated from potential premium increases resulting from new costs associated with the COVID-19 pandemic.

If you have any questions, please do not hesitate to contact Mary Haffenbredl of AHIP at 202-413-9817, R.J. Pirlot of AHI at 608-258-9506, or Tim Lundquist of WAHP at 608-255-0921.