MY BENEFIT ADVISOR

# California's Additional Response to COVID-19

Issued date: 03/26/20

California has announced several more developments with respect to health insurance carriers and health maintenance organizations in California in addition to those we provided to you in our March 19, 2020 Bulletin. Below is a summary of these additional responses.

## Payments of Insurance Premiums – Possible Relief

Recognizing that insureds may not be able to pay insurance premiums due to circumstances beyond their control, the California Department of Insurance has requested that all insurance carriers provide their insureds with at least a 60-day grace period to pay insurance premiums, to avoid cancellation of policies. This is not an order, rather it is a request that is directed to all admitted and non-admitted insurance carriers that provide any insurance coverage in California, including life, health, auto, property, casualty, and other types of insurance.

## New Special Enrollment Period in Covered California

The California Department of Insurance and the California Department of Managed Health Care have ordered California's state marketplace, Covered California, to create a special enrollment period through June 30, 2020, for eligible uninsured individuals to obtain individual health insurance coverage. This same special enrollment period also applies to individual health insurance policies purchased outside of Covered California. As a reminder, individuals who qualify for Medicare or Medi-Cal are not eligible for individual health policies.

Coverage during this special enrollment period will be effective on the first day of the month following the date the premium payment is postmarked or delivered to the plan, whichever is earlier. For example, if an individual pays his/her premium on March 25, 2020, the effective date of coverage would be April 1, 2020.

The special enrollment period provides relief for employees who were not eligible for or chose not to enroll in their employer's group health plan, by enabling them to obtain insurance for healthcare expenses incurred in treating COVID-19 (as well as other healthcare services), as long as they reside in California and otherwise qualify for an individual insurance policy.

The order from the California Department of Insurance also applies to "health plans and health insurers offering coverage outside the health insurance benefits exchange." It is not entirely clear whether the order extends to employer-sponsored group plans and are hopeful the Department of Insurance will provide further guidance.

## Filing Requirement for Insurance Carriers for Medically Necessary Treatment of COVID-19

The California Department of Insurance is requiring all health insurers operating in California to submit a notification describing how they are communicating with potentially impacted insured and summarizing the actions the insurer has taken (or is taking) to ensure the health care needs of insureds are met. This requirement does not apply with respect to self-insured group health plans. The notification must include information that demonstrates the insureds have access to medically necessary health care during the COVID-19 outbreak, including, but not limited to:

- Relaxing limits on waiting periods between refills so that insureds can maintain at least a 30-day supply of medication on hand (with the exception of refills for certain drug classes such as opioids, benzodiazepines and stimulants).
- Permitting conversion of 30-day prescriptions with multiple refills into one larger prescription (for example, allowing a prescription written as a 30-day supply with 2 refills to be filed as a single 90-day supply).
- Relaxing fill or refill supply limits imposed by the insurer, where the provider has indicated that a larger fill or refill is appropriate for the patient.
- Waiving delivery charges for home delivery of prescription medication.
- Assuring access by streamlining or eliminating processes for requesting prior authorization, step therapy exceptions, and exceptions for obtaining off-formulary drugs when a drug is unavailable due to supply chain disruptions or similar issues.
- Maximizing the use of telehealth in all appropriate settings by waiving or expediting any network provider credentialing, certification, or pre-authorization requirements.
- Permitting telehealth use by all types of providers, particularly providers of medical/surgical services and providers of mental health and substance abuse disorder services.
- Facilitating telehealth as an infection control measure through waiver of applicable cost-sharing for services provided by telehealth, even for services where cost-sharing might apply for in-person services or treatment.
- If care cannot be provided within the insurer's network, arranging for available and accessible providers outside the network, with the patient responsible only for an amount equal to in-network cost sharing.
- Adopting contingency plans if network providers (especially hospitals) are unable to provide care due to excessive demand related to the COVID-19 emergency, and effecting transfers to the nearest facility (in- or out-of-network) with the capacity to provide medically appropriate care.

## HMO Voluntary and Mandatory Procedures

The California Department of Managed Health Care has published three All Plan Letters for HMOs (2020-07, 2020-08, and 2020-09) which contain guidance on social distancing, the provision of health care services during self-isolation orders and reimbursement for telehealth. Highlights of the guidance are as follows:

- HMOs should allow enrollees to receive at least a 90-day supply of maintenance drugs, unless the enrollee's provider has indicated a shorter supply of a drug is appropriate for the enrollee.
- HMOs should suspend prescription drug refill limitations where the enrollee's provider has indicated a refill is appropriate for the enrollee.
- HMOs should waive delivery charges for home delivery of prescription medications.
- For services provided via telehealth, the HMO must not require cost-sharing by the enrollee that is greater than the cost-sharing that would apply had the service been provided in-person. In addition, HMOs should (but are not required to) waive cost-sharing for care delivered via telehealth, even if cost-sharing applies whenever the provider delivers care in-person.

- If an HMO has pre-authorization (or pre-certification) requirements that contracted providers must meet before the HMO will cover care delivered via telehealth, the HMO should either expedite its review process or relax those pre-authorization (or pre-certification) requirements to allow the HMO to more quickly approve providers to offer services via telehealth.

- HMOs must reimburse providers at the same rate, whether a service is provided in-person or through telehealth, provided that the service is the same regardless of the method of delivery. For example, if an HMO reimburses a mental health provider $100 for a 50-minute therapy session conducted in-person, the HMO must reimburse the provider $100 for a 50-minute therapy session done via telehealth.

- HMOs must provide the same amount of reimbursement for a service rendered via telephone as they would if the service had been rendered via video, provided the method by which the service is rendered (telephone or video) is medically appropriate for the enrollee.

- HMOs may choose to delay elective surgeries and other non-urgent procedures during this time, provided that the referring or treating provider (or, if applicable, the health professional providing triage or screening services) has determined that a longer waiting time will not have a detrimental effect on the enrollee's health.

- If an HMO does not have sufficient personnel to mail hard-copy notices and other information to enrollees and providers as required by law, the HMO may instead communicate with enrollees and provides electronically or by telephone.

## Employer Action

Employers should consider sending a communication to employees residing in California who are not enrolled in the employer's group medical plan, informing them about the special enrollment period to obtain individual health insurance in California. Employers should also forward communications they receive from insurance carriers and HMOs summarizing their responses to changes in coverage to covered employees and COBRA qualified beneficiaries. Employers that are experiencing financial difficulties in paying their monthly group insurance premiums can contact their Account Executive for assistance in coordinating payment deadlines with their insurance carriers.

We are monitoring developments around COVID-19 and will continue to update you.

## Resources

- Notice from the California Department of Insurance on the 60-Day Grace Period for Insurance Premium Payments (March 18, 2020), http://www.insurance.ca.gov/0400-news/0100-press-releases/2020/upload/nr030-BillingGracePeriodNotice03182020.pdf
- California Department of Insurance press release discussing special enrollment in Covered California (March 20, 2020), http://www.insurance.ca.gov/0400-news/0100-press-releases/2020/release031-2020.cfm
- California Department of Managed Health Care's All Plan Letters 2020-07, 2020-08, 2020-09, and 2020-10, https://www.dmhc.ca.gov/LicensingReporting/HealthPlanLicensing/AllPlanLetters.aspx
- Special enrollment at Covered California for the COVID-19 pandemic, https://www.coveredca.com/individuals-and-families/getting-covered/special-enrollment/
- California Department of Insurance COVID-19 State of Emergency Notification Filing Requirements, http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/CDI-Emergency-Notification-Filing-Requirements-COVID-19-3-18-2020.pdf