MDHHS Michigan Department of Health & Human Services

Medical Services Administration

BULLETIN MSA

Bulletin Number: MSA 20-30

Distribution: Home Help Agency and Individual Providers, MI Choice Waiver Agencies, Program of All-Inclusive Care for the Elderly (PACE) Providers, Maternal Infant Health Program Providers, Integrated Care Organizations (ICOs), Medicaid Health Plans (MHPs), Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

Issued: November 4, 2020

Subject: COVID-Response: Relaxing Face-to-Face Requirement (Update)

Effective: Immediately

Programs Affected: Children's Waiver Program, Children's Special Health Care Services, Flint Waiver, Habilitation Supports Program, Healthy Michigan Plan, Michigan's Section 1115 Behavioral Health Waiver Program, MIChild, MI Choice Waiver, MI Health Link, PACE, MOMS, Waiver for Children with Serious Emotional Disturbances

The purpose of this bulletin is to expand the flexibility related to face-to-face requirements of in-person communications. MDHHS issued Bulletin MSA 20-12, COVID-19 Response: Relaxing Face-to-Face Requirement, on March 18, 2020, which provided guidance to allow flexibility of in-person communication requirements to protect the health and welfare of beneficiaries and providers while maintaining access to vital services during the COVID-19 pandemic. **This bulletin provides updates in order to clarify the virtual communication options regarding permitted technologies, Health Insurance Portability and Accountability Act (HIPAA) compliance, and screening considerations for virtual visits to ensure consistence with federal and state guidance issue subsequent to Bulletin MSA 20-12**. Given the circumstances of the pandemic, this policy is intended to be time-limited, and MDHHS will notify providers of its termination. Bulletin MSA 20-12 can be accessed on the MDHHS website at www.michigan.gov/medicaidproviders.

During this time, providers may use **telephonic or simultaneous audio and video technology** for program functions that require in-person communication so long as the beneficiary or legal representative provides verbal or written consent to these "virtual" methods. Examples of in-person communication that can be conducted using virtual methods include initial assessments, re-assessments, Nursing Facility Level of Care Determination (LOCD) assessments, Preadmission Screening and Resident Review (PASARR) assessments, care planning meetings, person-centered planning, home visits, case management, and provider assessment and monitoring.

This guidance does not apply to personal care services or other services that support Activities of Daily Living (ADL). Personal care services and ADL services are necessary to sustain the life of the beneficiary and cannot be completed via virtual methods. MDHHS issued "Actions for Caregivers for Older Adults" which provides guidance for direct care workers providing personal care services.

The U.S. Department of Health and Human Services Office of Civil Rights (OCR) has provided guidance on allowing for flexibility of the Health Insurance Portability and Accountability Act (HIPAA) during the COVID-19 emergency, including allowing the use of alternative applications and technologies when providing telehealth services. **MDHHS will align with Centers for Medicare & Medicaid Services (CMS) and OCR guidance regarding HIPAA as it relates to the use of these alternatives.**

The use of alternative methods of in-person communication must be documented as a comment on the provider claim and in the beneficiary record, as appropriate. The conditions may also warrant documenting the rationale for alternative methods and the beneficiary's preference or consent. **Providers should notify the beneficiaries of the privacy and security risks of any information shared using these methods**. Providers should enable all available encryption and privacy modes of the application and make every effort to ensure the privacy of the beneficiary and the security of information shared. If a beneficiary is unable to communicate over the phone or over the chosen virtual means of communication, the service may be completed with the assistance of a legal guardian or another appropriately authorized individual, consistent with state and federal law.

Providers should use their clinical judgment regarding the risk to beneficiaries and employees, and the relative need for in-person communication with beneficiaries who have complex care needs. **Providers must follow CDC guidance for safely conducting necessary in-person visits, as well as communication of infection prevention and control measures, including but not limited to wearing personal protective equipment (PPE), washing or sanitizing hands, and physically distancing from the beneficiary.** Providers must also consider that a beneficiary may be at increased risk for domestic violence or neglect due to prolonged isolation. These concerns should be addressed with the appropriate authorities.

When conducting visits, either virtual or in-person, **providers should follow CDC guidance for monitoring of worsening COVID-19 symptoms and emergency warning signs necessitating greater medical follow up.** Older adults and people with underlying health conditions are at a higher risk of developing more serious complications from COVID-19 illness and should seek care as soon as symptoms start. The provider conducting outreach to the beneficiary shall assist in securing transportation services to the healthcare provider if needed. Information on caring for someone and monitoring for warning signs of COVID-19 can be accessed on the CDC COVID-19 webpage at www.cdc.gov/coronavirus/2019-nCoV/index.html >> "Symptoms" and "Caring for someone."

Following the termination of this policy, in-person contacts should be made as soon as feasible to validate information gathered telephonically or through simultaneous audio and visual

technologies and to reassess as appropriate. There will be no penalty for in-person contacts delayed due to the use of alternative methods.

Additional Resources

Guidance for direct care workers is available on the MDHHS website at: www.michigan.gov/coronavirus >> "Resources" >> "for Health Professionals" >> "Actions for Caregivers of Older Adults."

Information on protecting yourself and others from COVID-19 can be found on the CDC COVID-19 webpage at www.cdc.gov/coronavirus/2019-nCoV/index.html.

Public Comment

The public comment portion of the policy promulgation process is being conducted concurrently with the implementation of the change noted in this bulletin. Any interested party wishing to comment on the change may do so by submitting comments to Emily Frankman via e-mail at FrankmanE@michigan.gov.

Please include **"**COVID-19 Response: Relaxing Face-to-Face Requirement (Update)**"** in the subject line.

Comments received will be considered for revisions to the change implemented by this bulletin.

Manual Maintenance

Information is time-limited and will not be incorporated into any policy or procedure manuals.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mailed to ProviderSupport@michigan.gov. When you submit an e-mail, be sure to include your name, affiliation, NPI number, and phone number so you may be contacted if necessary. Providers may phone toll-free. Typical providers should call 800-292-2550; atypical providers should call 800-979-4662.

Approved

Kate Massey, Director
Medical Services Administration