



Department of Health

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Effective June 25, 2021, in accordance with the end of the State Disaster Emergency declared on March 7, 2020 to fight COVID-19, this guidance has expired.

Re: COVID-19 Guidance for Inpatient, Rehabilitation, and Skilled Nursing Facilities and Other Health Care Providers on Suspension of Health Plan Utilization Review Requirements

Dear Health Care Providers:

The New York State Department of Health (NYSDOH) is providing this guidance to inpatient, rehabilitation, and skilled nursing facilities, as well as other health care providers, pertaining to the current novel coronavirus (COVID-19) outbreak. This guidance addresses health care provider responsibilities in accordance with the health insurance industry's suspension of certain utilization review requirements pursuant to the [Department of Financial Services Circular Letter No. 8 \(2020\)](#), and other voluntary reductions and eliminations in authorization requirements. Utilization review is used to determine if a requested health care service is medically necessary. This guidance is provided due to the state disaster emergency declared by Executive Order No. 202 and shall remain in effect until subsequent notice from NYSDOH, which will be provided prior to, or upon, the expiration of such state disaster emergency.

Background

The health and safety of the State's health care providers and our ability to provide and support patient care remain our top priorities. The number of Persons Under Investigation (PUIs) and confirmed COVID-19 cases is increasing in NYS. Knowledge of COVID-19 infections identified in the US continues to evolve and is rapidly changing. It is important for all agencies to keep apprised of current guidance by regularly visiting the NYSDOH COVID-19 website, the Centers for Disease Control and Prevention (CDC) website, as well as the NYSDOH Health Commerce System (HCS), for the most up-to-date information for healthcare providers.

- NYSDOH: <https://www.health.ny.gov/diseases/communicable/coronavirus.htm>
- CDC: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- HCS: <https://commerce.health.state.ny.us>

It is important to keep staff updated as the situation changes and educate them about: the disease; its signs and symptoms; protocols for exposure to confirmed cases; conditions for return to work for staff with confirmed or suspected cases; and necessary infection control measure to protect themselves and the people they serve. NYSDOH distributes alerts and advisories on its website. It is vital that providers maintain up-to-date contact with both NYSDOH and the CDC. Providers may wish to provide internal contact information for their staff and clients to call with concerns, reports or questions.

Health Plan Suspension of Utilization Review Requirements

To help ensure access to COVID-19 testing and treatment, health care facilities, prescription medication, and telehealth services, health plans have suspended or relaxed prior authorization, utilization review and certain provider notification requirements. Furthermore, payment may be made, during the state of emergency, to in-network facilities and other providers without performing retrospective review for medical necessity.

In light of the suspension or removal of administrative tasks associated with the delivery of care, and to coordinate service provision and efficient use of services resources during the emergency, it is NYSDOH's expectation that hospital, rehabilitation and skilled nursing facilities should make their best effort:

- To provide 48 hours' notice to the patient's health plan after an admission, including information necessary for a health plan to assist in coordinating care and discharge planning; and
- When discharging to a lower level of care, to arrange discharge to participating providers of the health plan's network. Health plans should provide hospitals with an up-to-date list of all in-network rehabilitation facilities and skilled nursing facilities, in order to facilitate such discharges.

Insurance Law §§ 3217-d(d), 4306-c(d), and 4804(a) and Public Health Law § 4403(6) require a health plan that does not have an in-network provider, including an inpatient rehabilitation services provider, able to accept the covered individual, to provide access to an out-of-network provider at the in-network cost-sharing. If an admission to an out-of-network rehabilitation or skilled nursing facility is needed during the emergency, the out of network facility should:

- Make best effort to provide 48 hours' notice to the patient's health plan after an admission, including information necessary for a health plan to assist in coordinating care and discharge planning; and
- Negotiate a rate of payment within 48 hours from the notification. If no agreement is reached, facilities are advised to accept reimbursement for inpatient rehabilitation services for patients covered under individual or group comprehensive health insurance policies or contracts at the lesser of: (a) the health plan's prevailing in-network reimbursement rate for such services, with respect to individuals covered under such policies or contracts, or (b) the Medicare reimbursement rate for such services. Absent a negotiated rate, Medicaid managed care enrollees' care continues to be reimbursed at the Medicaid benchmark rate.

Health plans will return to regular operations upon expiration of the state's disaster emergency guidance. Upon resumption of retrospective review, claims reconciliation and payment adjustments, it is NYSDOH's expectation that all providers refrain from balance billing patients for services provided under the State's disaster emergency guidance, and resolve disputed claims directly with the patient's health plan. If an in-network hospital accepts payment for such claims, it should not enforce any contractual limitations regarding the permissibility of retrospective review or overpayment recovery.

Providers and health plans are encouraged to work together to ensure that patients get the care they need, while hospitals, facilities and other providers shift resources to respond to the COVID-19 emergency.

Instructions for Provider Personnel who are at Risk of Being a Person Under Investigation (PUI)

Staff are exposed to the general community every day and could become infected with COVID-19. Providers should ensure they have a policy in place to speak with staff, prior to them conducting face-to-face visits with enrolled members, in order to screen the staff for symptoms or contacts that put them at risk. It is important that providers strictly enforce their illness and sick leave policies. Staff showing symptoms of illness should not be permitted to remain at work or visit members. Providers may allow staff with confirmed or suspected COVID-19, or potential exposure to someone with confirmed or suspected COVID-19, to return to work in conformance with NYSDOH published Health Advisories.

If a staff person is found to be ill upon screening, the agency should immediately send the person home and suggest that they contact their primary care physician, or refer them to immediate medical care, if necessary.

Where can I direct my questions about COVID-19?

Questions can be directed to icp@health.ny.gov or to the toll-free call center at 888-364-3065.

Where can I direct my questions about this guidance?

Questions relating to this guidance may be sent to OMCMail@health.ny.gov.

Your diligence in implementing appropriate measures for COVID-19 preparedness is appreciated.