OIG Advocates for Increased Oversight of Medicaid Telehealth Services in Behavioral Health



Telehealth's exponential growth –in part due to the COVID-19 pandemic – has highlighted both its value in increasing access to care and the potential for misuse. The U.S. Department of Health and Human Services' Office of Inspector General (OIG) released a **report** in September 2021 that found many state Medicaid programs do not sufficiently evaluate whether telehealth improves access to care, reduces costs, or boosts the quality of care for Medicaid recipients receiving behavioral health services. Further, the OIG found that many state Medicaid programs do not provide the appropriate oversight necessary to reduce fraud, waste, and abuse. In fact, only two (2) states have measured the efficacy of telehealth on access to behavioral health services for Medicaid beneficiaries. In short, the OIG concludes that more steps should be taken to maintain oversight over telehealth, especially in the behavioral health context.

Background

When it comes to behavioral health services such as mental health assessments and therapy, generally, depending on insurance coverage limitations, telehealth can be used and could be covered. The OIG report addresses this concept and states: "As the nation confronts the psychological and emotional impact of COVID-19, the use of telehealth will be important in addressing behavioral health needs for Medicaid enrollees." However, providers must first understand where the value lies, how best to deliver these services, and how to avoid fraud and abuse; and that begins with monitoring and evaluating telehealth services in the Medicaid program.

OIG Findings

The OIG report found the following:

- A few states (3 of 37) could not identify which telehealth services are even offered to Medicaid beneficiaries. Not being able to identify services provided to Medicaid beneficiaries limits the state's ability to analyze the effects of telehealth for Medicaid enrollees, monitor and provide oversight specific to telehealth, or detect and prevent fraud.

- Only a few states assessed the impact of telehealth usage on behavioral health services for Medicaid beneficiaries, despite states' responsibilities to ensure access to care and address quality of care. An **accompanying** report showed that states described the challenges and limitations of using telehealth to meet the behavioral needs of Medicaid enrollees. As the reimbursement landscape continues to change and there is an increased shift towards telehealth service offerings to Medicaid beneficiaries, the OIG stated that it is critical for all states to evaluate the impact of telehealth.

- Despite concerns of states about telehealth abuse (e.g., inappropriate billing for delivering both telehealth and in-person services, billing for services not rendered, and billing for

services provided from outside the country) and states' joint responsibility to monitor their Medicaid programs, the OIG report concluded that many states (26 of 37) do not perform adequate monitoring or oversight on telehealth services to detect any fraud, waste, and abuse meaningfully. Because of the virtual nature of telehealth services and the complex regulatory environment, states cannot monitor telehealth services to the same degree as in-person services. The report also found that several states' program integrity efforts are insufficient to monitor telehealth.

OIG Recommendations

Because the Centers for Medicare & Medicaid Services (CMS) plays an equally important role in evaluating and overseeing state Medicaid programs, the OIG recommends that CMS work with the three states that are unable to distinguish telehealth from in-person services to ensure implementation of indicators to identify which services are provided via telehealth. The OIG suggests that CMS conduct evaluations, and support state efforts to evaluate the effects of telehealth on access, cost, and quality of behavioral health services and conduct monitoring for fraud, waste, and abuse. Furthermore, the OIG encourages CMS to specifically support state efforts to oversee and monitor telehealth for behavioral health services.

Notably, CMS agreed with at least one of OIG's recommendations; namely, CMS indicated that "it is currently monitoring the impact of the COVID-19 pandemic on behavioral health services delivered via telehealth by managed care organizations and has provided States with a Risk Assessment Template to assist State efforts in identifying and addressing program risks." Further, CMS stated that "it will consider the results from OIG's study to develop ways to support State efforts to oversee behavioral health services delivered via telehealth by managed care organizations." Whether these efforts from CMS will be sufficient to help the states at issue remains to be seen.

Takeaways

Telehealth providers should be mindful that states may begin to undertake more robust and comprehensive measures to assess and ultimately restrict access to Medicaid funds for telehealth services. Based on the OIG's report, we anticipate that, because states are charged with determining how their Medicaid programs cover the use of telehealth, the OIG's report may trigger more active and meaningful monitoring and oversight of the use of telehealth with Medicaid beneficiaries. States may also start to more thoroughly evaluate the impact of telehealth on access, quality, and cost. And, we anticipate that state Medicaid programs will likely undertake more significant analysis as they determine which services will continue to be covered in a post-COVID-19 pandemic world.

Accordingly, providers should heed CMS's anticipated increased monitoring of behavioral health services delivered via telehealth. Providers receiving state-based healthcare reimbursement, for example, should undertake a risk assessment and remedial steps to ensure that telehealth services provided to Medicaid beneficiaries are in compliance with that state's telehealth laws. This includes reviewing credentialing policies to ensure that each healthcare professional is licensed in the state in which the patient is receiving services and that the company is tracking compliance. Further, as a general practice, telehealth providers should verify that the correct Current Procedural Terminology medical codes are utilized when providing behavioral health telehealth services to Medicaid enrollees. Lastly, telehealth providers should confirm that they are properly tracking the effects of their telehealth program on Medicaid beneficiaries to better understand the impact telehealth has on access, cost, and quality.