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Stephanie Muth
Deputy Executive Commissioner Medicaid & CHIP Services
Texas Health and Human Services Commission
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Submitted via email to: stephanie.muth@hsc.state.tx.us
ryan.vanramshorst@hsc.state.tx.us,

Dear Deputy Commissioner Muth,

The Texas Pediatric Society, the Texas Chapter of the American Academy of Pediatrics (AAP), a nonprofit organization representing over 4,200 pediatricians, and the Texas Medical Association, representing over 53,000 physicians dedicated to the health, safety, and well-being of all children and families across the state, applaud all that our state is doing during unprecedented crisis so that our health care system can dynamically respond to the needs of patients. We write today to request specific telemedicine care policy changes for Medicaid (including Medicaid managed care organizations (MCOs)) and the Children's Health Insurance Program (CHIP), so that the health of children in the state can be maintained during the COVID-19 outbreak—telemedicine care is and will play a crucial role in protecting the health of children during this time of social distancing.

To this end, and in conjunction with the recently released FAQ, checklists, and tools for Medicaid and CHIP programs from the Centers for Medicare and Medicaid Services (CMS)¹, Texas should also amend existing Medicaid MCO contracts to extend the same telemedicine flexibilities authorized under the state plan, waiver, or demonstration covered under contracts.

Pediatricians across the state are quickly moving to the provision of telemedicine care in response to COVID-19. Pediatric practices, some utilizing telemedicine care for the first time, are swiftly adapting office policies and procedures to protect children and to minimize risk to families. As we adapt, we are asking that the state make similar changes to better facilitate the use of telemedicine care. In particular, we have identified the following policies that will help us provide telemedicine care to the children in our care. We know that your offices have already made several changes and are likely already contemplating several of these additional policy changes, and our inclusion below may be duplicative of policy decisions happening in real time. (In the event of such changes, we applaud you.)

During this time of crisis, Medicaid, and CHIP should:

1 See <https://www.medicaid.gov/state-resource-center/downloads/covid-19-fags.pdf>,
<https://www.cms.gov/newsroom/press-releases/trump-administration-releases-covid-19-checklists-and-tools-accelerate-relief-state-medicaid-chip>

Pay for all types of clinically appropriate telemedicine care. This should include live video, store-and-forward, remote patient monitoring, telephone care (including phone only) and electronic consults, as well as virtual check-ins and e-visits. We are aware that Texas Medicaid has already made telephonic care available for 30 days as of March 20, 2020 for acute care and office visits code, and we greatly appreciate that flexibility. There is no sign that our current epidemic will be subsiding in that time and implore the agency to extend the timeframe in which telephonic services are available so that pediatricians are confident the modality will be available in the future when they need it. Telemedicine care services should be made widely available to replace typically in-person visits as clinically appropriate, including ambulatory, hospital-based, mental and behavioral health, habilitative and rehabilitative, and well-child visits (more on this below). Additional guidance is needed to ensure that any code currently payable by other payers is allowable by Medicaid MCOs.

Temporarily amend Medicaid and CHIP policy to allow physicians to conduct Texas Health Steps visits via telemedicine, subject to certain restrictions. Texas Health Steps well-child exams should normally be done in-person as the physical exam and in-person clinical encounter is core to the effectiveness of the preventive visit. However, due to the extraordinary nature of the COVID-19 pandemic, Medicaid should temporarily suspend prohibition of the use of telemedicine for THSteps visits. Conducting THSteps visits via telemedicine will protect physicians, health care professionals and patients from potential exposure to COVID-19 while also ensuring that children obtain vital preventive health care and developmental screens. TPS recommends the following:

- **Allow Texas Health Steps telemedicine payment for an emergency modified well-child visit for children older than 18 months of age, consistent with Texas Medical Board guidance.** As the COVID-19 outbreak continues, we should provide maximum flexibility to ensure that all clinically appropriate services can be provided via telemedicine to both new and established patients.
- **Establish payment parity for Texas Health Steps telemedicine and in-person services for both Medicaid fee-for-service and Medicaid managed care patients.** Payment parity will be critical to supporting physician practice viability. Of note for Medicaid, CMS has indicated in its recently released "Medicaid State Plan Fee-for-Service Payments for Services Delivered Via Telemedicine" document that Medicaid programs that pay at parity can avoid submission of a state plan amendment (SPA) to establish this payment level for telemedicine care.² Doing so will have the added benefit of avoiding this administrative step and possible implementation delay.
- **Maintain add-on payments**, such as adolescent mental health screenings, that normally would be allowed along with a well-visit.
- Establish a temporary policy to **allow physicians to bill for an exception to periodicity in order to see a child sooner than otherwise allowed** if the last well-child visit was an emergency modified well-child visit. This arrangement would allow a child's physical exam to be deferred to the next safe opportunity.
- **Provide retroactive payment at parity to the beginning of this crisis.** Recognizing that many pediatricians have already begun providing telemedicine care during the COVID-19 crisis, payment and payment parity should be made retroactive to the January 31, 2020 National Public Health Emergency Declaration.
- **Provide for a transmission or facility fee.** Payment should also include a transmission or facility fee to compensate practices for associated telemedicine care costs.
- **Follow CPT billing guidelines and ensure coordination of billing requirements across payers.** States and payers should work together to ensure the same coding/billing requirements so that practices do not have

² See <https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-telehealth-services.pdf>

to change administrative procedures for different payers. Practice time during this crisis will be best utilized treating patients. **All payers should follow current CPT and ICD coding guidelines for consistency and eliminate undue administrative burden to providers and families.** For additional information, please see the Academy's "Coding for COVID-19 and Non-Direct Care" resource.³

- **Allow for good faith use of non-HIPAA compliant end-to-end communication apps/platforms.** On March 17, the US Department of Health and Human Services (HHS) Office of Civil Rights (OCR) announced that it would exercise its enforcement discretion and not penalize providers who make good faith use of platforms that normally would not meet HIPAA privacy standards to provide telemedicine care during this time of crisis.⁴ A subsequent HHS OCR frequently asked question (FAQ) document provides further details of this discretion and expectations at this time.⁵ While our state's pediatricians will continue to place the highest priority on patient safety and data privacy, allowing for the good faith use of non-HIPAA compliant apps/platforms during this time will ensure we can reach patients when HIPAA-compliant formats are not available or feasible.

We thank you for considering these telemedicine care recommendations during this time of unprecedented, rapid change. Facilitating the quick uptake and expansion of telemedicine care now will ensure we can address the clinical needs of our patients as the COVID-19 crisis continues to unfold.

The pediatricians of Texas stand committed to working with you to protect the health and lives of children and families. We look forward to open lines of communication so that we may continue to work together. Please contact Clayton Travis, TPS Director of Advocacy and Health Policy at 214-686-2272 or Clayton.Travis@txpeds.org at any time to discuss the above recommendations or how we can be of additional assistance to you.

Sincerely,



Tammy Camp, MD
President, Texas Pediatric Society



David C. Fleeger, MD
President, Texas Medical Association

cc:

Ryan Van Ramshorst, MD
Chief Medicaid Medical Director, Health and Human Services Commission

3 See <https://downloads.aap.org/AAP/PDF/COVID%202020.pdf>

4 See <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

5 See <https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf>