



NEW YORK STATE LEGISLATURE

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April 21, 2020

Howard Zucker, MD, JD, Commissioner
New York State Department of Health
Corning Tower, 14th Floor
Albany, NY 12237

Dear Dr. Zucker,

The March 31, 2020 “Frequently Asked Questions Regarding Use of Telehealth including Telephonic Services During the COVID-19 State of Emergency” appears to violate federal law by implying that New York State’s Federally Qualified Health Centers (FQHCs) will be unable to bill for and receive supplemental wraparound payments for health services delivered via telehealth or the telephone.

Under 42 U.S.C. § 1396a(bb)(5)(A), a state Medicaid program “shall provide for payment to the center or clinic by the State of a supplemental payment equal to the amount (if any) by which the [100% reasonable cost] amount ... exceeds the amount of the payments provided under the [managed care plan] contract.”

We strongly urge you to amend the State’s Medicaid policies and the FAQs immediately and ensure that the State follows federal law by properly paying FQHCs their federally mandated rates before New York’s safety net providers are decimated, hospitals become inundated with patients who have lost contact to vital primary care, and patients go without critical care and support when they need it most.

Following State and federal guidance to avoid in-person visits as much as clinically possible, FQHCs have pivoted to providing as much care as possible via telehealth and the telephone, managing countless confirmed and unconfirmed COVID-19 patients and others at home and avoiding unnecessary use of overwhelmed hospitals.

FQHCs are experiencing an average 56% reduction in visits over the past two weeks. This is the right thing to do, but it is severely impacting their financial stability with collective losses between \$28M-\$30M in revenue weekly. This has already caused over 70% of FQHCs to reduce hours and furlough staff, with a projected \$390M in further revenue losses in the next three months alone.

Some of our colleagues wrote to Governor Cuomo about these concerns, in a March 26th letter (attached), and we are aware that you have taken some steps to address them, but it is imperative that the State fully resolve the issue. New York must act swiftly to ensure that FQHCs’ receive legally mandated reimbursement for telehealth and telephone visits. Paying the lower “off-site” rate for telehealth visits without a wraparound supplement will devastate health centers’ ongoing financial stability.

This is important during the COVID-19 crisis. But this illegally inadequate payment policy was damaging before the crisis and will be damaging after it passes.

We call on you to update the Medicaid policy and FAQs and clarify that FQHCs will receive the wraparound payments, especially during the period of State health emergency.

Very truly yours,



Richard N. Gottfried
Chair
Assembly Health Committee



Gustavo Rivera
Chair
Senate Health Committee

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cc: Paul Francis
Donna Frescatore