California Governor Gavin Newsom recently signed into law two bills that expand the delivery of telehealth services in the state. In particular, the legislation:

- Permits providers to prescribe medications without a synchronous interaction
- Requires payment parity of telehealth services under commercial plans
- Loosens restrictions on Medicaid coverage of store-and-forward services.

California healthcare providers and commercial health payers should consider the following key takeaways from these laws.

**Remote Prescribing**

**Assembly Bill No. 1264** (codified at Cal. Bus. & Prof. Code § 2242(a)) took immediate effect on October 11, 2019. This provision alters the standard for prescribing, dispensing and furnishing dangerous drugs (including any prescription medication):

- Such drugs may be prescribed, dispensed and furnished as long as there is an “appropriate prior examination and a medical indication.”
- The law specifies that the appropriate prior examination “does not require a synchronous interaction” (e., real-time communication) and can be administered via telehealth as long as the provider abides by the appropriate standard of
The provision expressly identifies certain asynchronous technologies, including questionnaires and self-screening tools, that are permissible methods for conducting the prior examination.

Previously, the law required an “appropriate prior examination” but gave no detail regarding what that examination entailed. The new provision provides clarity and enables providers to use innovative solutions such as dynamic questionnaires when prescribing medications to patients.

**Payment Parity**

Although California previously required certain insurers (including commercial payers and Medi-Cal managed care plans) to cover telehealth services, it did not specify that telehealth services have to be reimbursed at the same rate as in-person care. Assembly Bill No. 744 changed that with its addition of two new statutes: Cal. Health & Safety Code § 1374.14 and Cal. Ins. Code § 10123.855. These new provisions do not require reimbursement parity for Medi-Cal managed care plans, however.

These statutes incorporate the following provisions for contracts that are issued, amended or renewed on or after January 1, 2021:

- Commercial payers must reimburse services appropriately delivered through telehealth “on the same basis and to the same extent” as the services are reimbursed when provided in person.
- Insurers and providers retain the ability to negotiate reimbursement rates, but healthcare services that are the same, “as determined by the provider’s description of the service on the claim,” will be reimbursed at the same rate, whether provided in person or through telehealth.
- Telehealth services offered by an out-of-network provider do not need to be covered by a health plan or insurer, unless required under other provisions of law.
- Insurers can establish copayment or coinsurance requirements for telehealth services if they do not exceed the copayment or coinsurance for in-person services. However, cost sharing is not required for telehealth services.
- Telehealth reimbursement does not need to be separated from other capitated or bundled risk-based payments.
- Insurers cannot limit coverage only to corporate telehealth service providers.

**Medicaid Coverage of Store and Forward**

Previously, Medi-Cal only permitted certain services to be delivered via store and forward without face-to-face contact, including teleophthalmology, teledermatology and teledentistry. However, Assembly Bill No. 744 revised Cal. Welf. & Ins. Code § 14132.725 such that face-to-face contact is not required for any services provided by asynchronous store-and-forward technologies.

_Winnie Uluocha, a law clerk in the Firm’s Chicago office, also contributed to this post._