The Efficacy and Expansion of Telemedicine to Meet the Growing COVID-19 Pandemic

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The use of telemedicine has been increasing exponentially, well before the COVID-19 pandemic. In 2013 telemedicine accounted for a $20.4 billion share of the health care market, but that number was projected to increase by 2020 to $30 billion, according to the Centers for Disease Control and Prevention (CDC). Between 2004 and 2013, the number of telemedicine visits among rural Medicare beneficiaries alone had increased from 7,000 to 108,000. Now, amid the COVID-19 crisis, providers are using telemedicine even more and the number of visits is expected to continue to expand as it becomes a vital tool to contain and reduce the spread of the virus.

Telemedicine pre-COVID-19 was traditionally used for the convenience of the patient/clinician, to expand access to specialized care, and to offer more efficient and cost-effective delivery options. COVID-19 has presented a number of new challenges as health care providers attempt to screen, diagnose and treat individuals. The need for social distancing to limit or reduce the spread of the disease, along with the danger of providers contracting the disease while trying to treat others, has complicated the health care delivery process.

Telemedicine and the COVID-19 Crisis
In the face of COVID-19, telemedicine moved into the realm of protective medicine in an effort to contain the disease and prevent the transmission of the virus to other patients or health care providers. Medical providers are combating the growing COVID-19 pandemic by turning in greater numbers to the remote screening, diagnosis and treatment of patients through telecommunications technology such as remote monitoring devices and videoconferences. As the epidemic spreads, providers are expected to expand the use of telemedicine even more.

For example, physicians at Providence Hospital in Everett, Washington, recently began assessing patients from remote locations via video carts rolled to the bedside. Although this technique protects physicians’ potential virus exposure, the same does not necessarily apply to the staff members moving the equipment. This use of telemedicine for patient evaluation is an interesting take on telemedicine amid the coronavirus practice, however, it is expected that virus consults at this institution in the near future will be done entirely through remote access. In fact, University of Washington Medicine, NYU Langone, OHSU, UCFS and others currently are using virtual visits as a first line of access to direct patients who are symptomatic to get testing in a way that minimizes exposure.

Telemedicine is particularly well suited to address the challenges presented by COVID-19, as it allows more providers to screen and treat a greater number of patients, and patients who may be infected with the virus no longer have to travel to the hospital or the provider’s office for evaluation. There are concerns that come with the use of telemedicine, such as misdiagnosis or failure to identify other serious conditions, given the heightened focus on the symptoms of the virus. These concerns, however, are not unique to telemedicine and do not outweigh its benefits.

Expanded Coverages

Because of the benefits telemedicine can provide during this crisis, federal and state governments are taking steps to reduce regulations and allow providers greater use of telemedicine. On the federal level, the Trump Administration announced on March 16, 2020, that it was expanding telemedicine services for Medicare beneficiaries throughout the country and reducing HIPAA enforcement to further combat the coronavirus crisis. This national emergency declaration, which took effect March 6, 2020, was made under the Stafford Act, the National Emergencies Act, the Centers for Medicare and Medicaid Services (CMS) expanded telehealth benefits under the 1135 waiver authority, and the Coronavirus Preparedness and Response Supplemental Appropriations Act.

The declaration increases regulatory flexibility and allows for greater use of telemedicine services so that individuals can obtain screening and treatment without having to travel to a provider, which can help to contain and reduce the spread of the virus. Prior to this emergency declaration, Medicare was allowed to pay clinicians for telemedicine services only in routine visits in certain circumstances, and beneficiaries generally were not permitted to receive telehealth services from their homes.

States also are taking action to allow for the increased use of telemedicine. For instance, in Massachusetts, as part of a recent declaration of a state of emergency,
the commonwealth mandated that all payers cover medically necessary telemedicine testing and treatment for the current strain of coronavirus. Maryland is allowing doctors with out-of-state medical licenses or expired Maryland medical licenses to practice medicine in the state, which allows more doctors from outside the state to see and treat individuals in the state through telemedicine.

Private health care insurers also are expanding coverages for telemedicine, as Aetna recently announced it will waive co-pays for telemedicine visits for the next 90 days. Thereafter, Humana, Blue Cross Blue Shield of Massachusetts and others announced similar expansions.

Moving Forward: Implications for Providers

Telemedicine has been around for decades, and as it continued to evolve and expand there was a belief that litigation related to this type of medical treatment would increase dramatically. Despite this belief, there have been very few medical malpractice cases related to the field. This may change as the use of telemedicine continues to expand in new and unprecedented ways.

As the use of telemedicine increases during the crisis, providers should be aware of:

- The risks and liabilities involved
- The laws in the states where they are practicing
- Their duty to explain to patients the risks involved with telemedicine prior to obtaining informed consent from the patients
- The need to maintain proof of the use of telemedicine and informed consent in their records.

Risks involved with telemedicine include privacy concerns and the possibility of security breaches, as well as the possibility of power failure or other technological problems. Telemedicine also could expose providers to new claims related to issues such as the inability to accurately examine a patient as a result of image distortions or other technological problems, and claims may assert that telemedicine has limitations in treating patients remotely, especially those who are very sick and may need to receive in-person treatment. Health care networks and hospitals should be aware of these risks while keeping in mind that the use of telemedicine to help manage this crisis is critical.

Summary

For years, health insurance has offered telehealth options for patients, such as seeing a nurse or doctor virtually for routine problems or being monitored remotely for critical conditions, however, not all patients have taken advantage of these options. Given the crisis at hand, the health care industry is expanding how technology can be used. To that end, technology is only as good as the person using it, and we can expect to see an increase in litigation specific to telemedicine. Misdiagnoses, technical failures or hacking and associated security topics present challenges that need to be considered and minimized; however, telemedicine offers
an essential tool in managing the unprecedented volume of cases that are expected going forward with the current pandemic.

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