MEMBER ADVISORY

COVID-19

As of March 12, the Arizona Department of Health Services (ADHS) and Centers for Disease Control and Prevention (CDC) have tested 115 Arizonans for SARS-CoV-2, the virus that cause COVID-19. There are two confirmed and seven presumptive positive cases in Arizona. A total of 82 cases have been ruled out, and 24 cases are pending.

NEW THIS WEEK

State Declaration of Public Health Emergency

On Wednesday, March 11, Governor Doug Ducey issued a Declaration of Public Health Emergency and Executive Order to help combat the continued spread of COVID-19 and to reduce financial burdens on Arizonans by lowering healthcare costs associated with the virus. The Emergency Declaration provides the following tools to address the spread of COVID-19:

- Grants ADHS the authority to waive licensing requirements to provide healthcare officials with assistance in delivering services during times of heightened demand. Any waivers would be determined based on future conditions.
- Allows the state to access $500,000 in emergency funds to aid in measures and resources to protect public health.
- Provides the state with emergency procurement authority to procure goods and services as needed to protect public health.

The Governor’s Executive Order is aimed at protecting Arizonans and populations at high-risk of serious complications from this virus. The order:

- Requires insurance companies and health plans to cover out-of-network providers, including out-of-plan laboratories and telemedicine providers.
- Waives all copays, coinsurance, and deductibles for consumers related to COVID-19 diagnostic testing and decreases co-pays for telemedicine visits. (See additional information from CMS on MA plans below.)
- Implements consumer protections, including prohibiting price-gouging on COVID-19 of diagnosis and treatment-related services.
• Require symptom checks of healthcare workers and visitors at skilled nursing facilities, nursing homes and assisted living facilities.

For more information on the waiver process under an emergency declaration, click here.

Arizona Department of Health Services

ADHS updated its COVID-19 website this week with additional provider guidance and links to new CDC resources.

Expansion of Commercial COVID-19 Testing

In an effort to augment limited federal and state testing capacity, the Food and Drug Administration last week issued diagnostic testing guidance to allow laboratories certified to perform high-complexity testing to test for COVID-19. Beginning March 3, commercial laboratory testing is available at LabCorp. Sonora Quest announced it will begin testing March 11. Healthcare providers can order these tests directly from the labs based on CDC screening criteria, and do not need to go through the local public health department. However, patients should not be sent to the labs. Providers must collect specimens at their facilities. The Maricopa County Public Health Department has provided detailed guidance on collecting and submitting specimens.

Governor Ducey’s recent Executive Order requires health plans to cover out-of-plan laboratories and waive all copays, coinsurance and deductibles related to COVID-19 diagnostic testing.

Hospital and Health System COVID-19 Policies and Screening/Testing Templates

The University of Washington Medical Center, which is at the epicenter of the U.S. COVID-19 response, is making its COVID-19 policies and screening/testing algorithms available to other hospitals and health systems. To access these documents type covid-19.uwmedicine.org into your browser. The website is not accessible via a Google search.

In addition, AzHHA’s group purchasing organization, Vizient, is hosting a series of webinars to assist its members with COVID-19 response. These events bring together hospitals and health systems from around the country to learn from subject matter experts and share best practices with one another.

Centers for Medicare & Medicaid Services (CMS)

We reported last week that CMS announced it is suspending non-emergency inspections across the country to allow inspectors to focus on issues related to infection control and serious health and safety threats such as abuse and other immediate jeopardy complaints. The agency also
released guidance and frequently asked questions relating to infection control and patient triage, placement and discharge.

CMS issued additional documents this week:

**Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Implications Related to COVID-19** - CMS issued a memorandum to State Survey Agency (SSA) directors with information concerning implications of COVID-19 for their compliance with EMTALA. It includes a question and answer document specific to EMTALA obligations and COVID-19, which emphasizes the importance of reliance on Centers for Disease Control and Prevention (CDC) guidance regarding isolation and infection control measures. The document also includes a fact sheet for addressing increased surges in the numbers of patients presenting to the ED. The memo reinforces hospitals’ existing obligation for screening, stabilization and transfer, stating that hospitals and critical access hospitals are expected to consider current CDC guidance and public health officials in determining whether they have the capability to provide appropriate isolation required for stabilizing treatment and/or to accept appropriate transfers. It also provides information as to hospital and health system latitude for setting up screening sites away from the ED. Specifically, CMS states that alternative screening sites may be located in other buildings on the campus of a hospital or in tents in the parking lot, as long as they are determined to be an appropriate setting for medical screening activities and meet the clinical requirements of the individuals referred to that setting. Hospitals may also set up screening sites at off-campus, hospital-controlled sites and encourage the public to go to those sites instead of the hospital for screening. However, an individual who presents to the ED or hospital campus may not be directed to go to one of these sites.

**Guidance for Medicare Advantage (MA) and Part D Sponsors** - CMS on March 10 issued guidance to MA plans and Part D sponsors detailing the requirements on and flexibilities available to plans to help patients access care during a disaster or emergency. As part of the guidance, CMS reminds plans and sponsors they are required to have and should review business continuity plans to address any potential operational disruptions during such a disaster or emergency.

MA plans in states or protectorates where the governor has declared an emergency MUST take certain steps to reduce barriers to care. These include covering services at out-of-network providers at in-network cost-sharing and waiving gatekeeper referral requirements. Such MA plan benefit changes are not subject to the standard 30-day notice requirements. All changes must be uniformly provided to similarly situated plan enrollees who are affected by the disaster or emergency.

**Medicare Advantage Plans:** MA plans MAY take other actions to assist beneficiaries. These include:

- Waiving or reducing cost-sharing for COVID-19 laboratory tests, telehealth benefits or other services to address the outbreak.
• Expand access to telehealth services beyond those approved by CMS in the plan’s benefit package.
• Waiving prior authorization requirements that would apply to tests for or treatments of COVID-19.

Plans that implement any of the above flexibilities must do so uniformly to similarly situated plan enrollees who are affected by the disaster or emergency. The Department of Health & Human Services (HHS) Office of Inspector General (OIG) has advised that plan actions consistent with this guidance would satisfy the safe harbor to the federal anti-kickback statute set forth at 42 CFR 1001.952(1). Finally, CMS advises MA plans that the HHS Secretary could direct the Medicare Administrative Contractors (MACs) to pay providers directly for services provided to MA enrollees. If that occurs, the MACs will seek reimbursement from MA plans for the covered services.

Part D Sponsors: Part D of the Social Security Act requires that the HHS Secretary’s rules on pharmacy network access “include adequate emergency access for enrollees.” As with previous presidential declarations of emergency or disaster, this authority gives Part D sponsors the ability to take certain actions to respond to expected disruption in access to covered Part D drugs. In addition, such steps also may be taken in states or protectorates where the governor has declared an emergency or state of emergency resulting from COVID-19. The following actions provide mandatory and permissive options for Part D sponsors:

• MUST ensure enrollees have adequate access to covered Part D drugs dispensed at out-of-network pharmacies when obtaining covered drugs from an in-network pharmacy cannot reasonably be expected.
• MAY relax “refill-too-soon” edits and allow for an enrollee to obtain the maximum extended day supply (if available and requested) if circumstances reasonably are expected to result in a disruption in access to drugs.
• MAY relax any plan-imposed policies that may discourage certain methods of delivery, such as mail or home delivery.
• MAY choose to waive prior authorization requirements that would otherwise be applied to Part D drugs used to treat or prevent COVID-19. NOTE: This option exists for Part D sponsors absent a disaster or emergency.

CMS previously issued guidance on coverage and payment of COVID-19 under Medicare, Medicaid and CHIP, and the Individual and Small Group Markets.

Guidance for Infection Control and Prevention Concerning Coronavirus Disease 2019 (COVID-19) in Home Health Agencies (HHAs) Under this guidance, CMS states surveyors should not cite providers/suppliers for not having certain supplies (e.g., personal protective equipment (PPE) such as gowns, respirators, surgical masks and alcohol based hand rubs) if they are having difficulty obtaining these supplies for reasons outside of their control. However, the agency does expect providers/suppliers to take actions to mitigate any resource shortages and show
they are taking all appropriate steps to obtain the necessary supplies as soon as possible. For example, if there is a shortage of alcohol-based hand rubs, staff are expected to practice effective hand washing with soap and water. Similarly, if there is a shortage of PPE (e.g., due to supplier(s) shortage which may be a regional or national issue), the facility should contact the appropriate local authorities notifying them of the shortage, follow national guidelines for optimizing their current supply or identify the next best option to care for patients.

Guidance for use of Certain Industrial Respirators by Health Care Personnel In this memo to SSAs, CMS clarifies its policies on the use of respirators and facemasks by healthcare personnel. Specifically, the memo implements CDC guidance by stating that facemasks, which protect the wearer from splashes and sprays, are an acceptable temporary alternative to respirators, which filter inhaled air, for most medical services when the supply chain of respirators cannot meet demand. Until the supply chain is restored, available respirators should be prioritized for procedures that are likely to generate respiratory aerosols, which would pose the highest exposure risk to health care workers. Once the supply chain for respirators is restored, facilities with a respiratory protection program should return to use of respirators for patients with known or suspected COVID-19. Facilities that don’t currently have such a program, but care for patients infected with pathogens such as COVID-19 for which a respirator is recommended, should implement a respiratory protection program.

The memo also implements the Food and Drug Administration’s (FDA) approval of a CDC request for an emergency use authorization to allow health care workers to use certain industrial respirators during the COVID-19 outbreak in health care settings. The FDA concluded that respirators approved by the National Institute for Occupational Safety and Health (NIOSH), but not currently meeting the agency’s requirements, may be effective in preventing health care personnel from airborne exposure that can cause serious or life-threatening illness. This action allows health care workers to use the NIOSH-approved respirators in a health care setting during the COVID-19 outbreak, even though they are not currently regulated by the FDA. The appendices to the emergency use authorization letter list approved Filtering Facepiece Respirators (FFRs) and can be found on FDA’s website.

The memo also alerts state surveyors that they are not required – on a temporary basis – to validate the date of a facility’s last annual test of the fit of N95 masks worn by workers in Medicare- and Medicaid-certified facilities, so as to minimize the number of discarded masks associated with such testing.

Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in nursing homes (REVISED) Facilities should actively screen and restrict visitation by those who meet the following criteria:
1. Signs or symptoms of a respiratory infection, such as fever, cough, shortness of breath, or sore throat.
2. In the last 14 days, has had contact with someone with a confirmed diagnosis of COVID19, or under investigation for COVID-19, or are ill with respiratory illness.
3. International travel within the last 14 days to countries with sustained community transmission.
4. Residing in a community where community-based spread of COVID-19 is occurring. For those individuals who do not meet the above criteria, facilities can allow entry but may require visitors to use Personal Protective Equipment (PPE) such as facemasks (see expanded guidance below).

Surveyors should not cite facilities for not having certain supplies (e.g., PPE such as gowns, N95 respirators, surgical masks and ABHR) if they are having difficulty obtaining these supplies for reasons outside of their control. However, CMS expects facilities to take actions to mitigate any resource shortages and show they are taking all appropriate steps to obtain the necessary supplies as soon as possible. For example, if there is a shortage of ABHR, staff are expected to practice effective hand washing with soap and water. Similarly, if there is a shortage of PPE (e.g., due to supplier(s) shortage which may be a regional or national issue), the facility should contact the local and state public health agency to notify them of the shortage, follow national guidelines for optimizing their current supply or identify the next best option to care for residents.

Internal Revenue Services (IRS)

The IRS this week issued guidance to employers who allow plans that are structured as high deductible health plans (HDHPs) to waive the deductible for testing and treatment of COVID-19 without putting the plans’ HDHP qualification at risk. Such qualification is necessary to protect the preferential tax treatment of employee contributions to health savings accounts. Such action is permitted until the IRS issues further guidance.

New CDC Guidance

This past week, CDC issued the following new, updated or interim guidance documents:

- Frequently Asked Questions on COVID-19 Testing at Laboratories
- Interim Guidance for Outpatient Hemodialysis Facilities
- Interim Infection Prevention and Control Guidelines for Patients with suspected or confirmed Covid-19 in a Healthcare Setting
- Environmental Cleaning and Disinfection Recommendations
- People at Risk for Serious Illness from COVID-19

Questions?
Contact us at Communications@azhha.org or 602-445-4327.
Ensure your hospital response team is on AzHHA’s COVID-19 member advisory distribution list. Email Communications@AzHHA.org with your team’s email addresses and ask us to add you to the list to receive future member advisories and COVID-19 updates.