

MEMORANDUM

Date: June 30, 2020

To: Al Charbonneau, Executive Director, Rhode Island Business Group on Health

From: James Gelfand, Senior Vice President for Health Policy, The ERISA Industry Committee (ERIC)

Re: **Problematic telehealth proposals will set Rhode Island back, behind other states, make health care more expensive for patients, reduce access to care**

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Dear Mr. Charbonneau,

As requested by the Rhode Island Business Group on Health, ERIC has reviewed the Office of the Health Insurance Commissioner's (OHIC) Legislative Proposal Related to Telemedicine, Prior Authorization, and Referrals. We have deep concerns regarding the reimbursement mandate for telehealth visits that will artificially raise the costs of telehealth, and the limits placed on the use of medical management for telehealth visits, which will raise health insurance costs for Rhode Island patients. We hope our comments are able to help the Rhode Island Business Group on Health as you consider taking action in the state.

(1) About ERIC

The ERISA Industry Committee (ERIC) and our nationwide employer member companies would like to thank you for bringing to our attention Governor Raimondo's interest in expanding COVID-19 telehealth access through December 31, 2021. As the country becomes more interconnected through technology, ERIC would like to provide our thoughts with you as requested by the Rhode Island Business Group on Health on some of the proposals mentioned in the Office of the Health Insurance Commissioner's (OHIC) Legislative Proposal Related to Telemedicine, Prior Authorization, and Referrals.

ERIC is a national nonprofit organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. ERIC's member companies voluntarily provide benefits that cover millions of active and retired workers and their families across the country, including in Rhode Island. With member companies that are leaders in every sector of the economy, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans and to lawfully operate under ERISA's protection from a patchwork of different and conflicting state and local laws, in addition to federal law.

You are likely to engage with an ERIC member company when you drive a car or fill it with gas, use a cell phone or a computer, watch TV, dine out or at home, fly on an airplane, visit a bank or hotel, benefit from our national defense, receive or send a package, go shopping, or use cosmetics.

ERIC's member companies have been pioneers in offering robust telehealth benefits before the COVID-19 pandemic. Telehealth enables our beneficiaries to obtain the care they need, when and where they need it, in an affordable and convenient manner. It reduces the need to leave home or work and risk infection at a physician's office, provides a solution for individuals with limited mobility or access to transportation, and has the potential to address provider shortages and improve choice and competition in health care. Nearly every ERIC member company offers comprehensive telehealth benefits. As in most aspects of health insurance and value-driven plan design, self-insured employers have been the early adopters and drivers of telehealth expansion. With the onset of the pandemic, ERIC's member companies led the way in rolling out telehealth improvements.

(2) Reimbursement “Parity” Results in Higher Costs, Less Access to Care

Under current law, providers are free to negotiate telemedicine rates with payers – which has given rise to a thriving market in which competition drives cost efficiency, value, quality, and innovation. Generally and regarding telehealth, we believe that it is wholly inappropriate and unprecedented for federal and state governments to mandate payment rates between two private parties.

Furthermore, telehealth is cheaper than in-person care. Telehealth enables providers to treat more patients more efficiently, with less overhead cost, less staff needed, and fewer expenses associated with operating brick-and-mortar retail health settings. This has enabled telehealth providers to offer more competitive rates than in-person, which has been in no small part responsible for the telehealth renaissance. Losing this successful competitive market would be a significant setback for patients and employers, and ultimately for up-and-coming providers who otherwise could cultivate opportunities in the telehealth space.

We are aware that many provider groups across the country are lobbying to mandate “payment parity” – which is not surprising, because it translates into higher payments for them, when they deliver lower-cost services. However, it should be readily apparent to lawmakers that this kind of mandate is not in the interest of patients, and will increase costs – likely putting health care and health insurance further out of reach for some patients. ***Instead of mandating higher prices for patients, the Rhode Island legislature could consider advancing proposals to increase competition by approving interstate compacts to allow more providers to offer telehealth services to patients in the state. It's a simple choice – protectionism, or choice and competition.***

(3) Medical Management Helps Control Health Insurance Costs – Limiting Medical Management Will Mean Higher Health Insurance Premiums for Patients

While it may be politically popular to advocate for eliminating medical management techniques like prior authorization or “try-first” requirements, these practices are integral to keeping a lid on health insurance costs. Medical management is integral to ensuring that patients prioritize high-value, low-cost care before resorting to care of questionable or low value treatments, to avoid choosing high-cost treatments or medications often favored by the health industry – whether we are talking about large hospital systems, out-of-network specialists, or big pharma.

Implementing medical management tools like prior authorization allows ERIC member companies to cut down on waste and improper utilization within the health plan. Prior authorization ensures that a requested service or prescription drug is medically necessary without duplication. It allows an employee to see a specialist without reordering tests already conducted by his or her primary care physician, and

allows care coordination to prevent a physician from prescribing an addictive opioid that may negatively interact with the employee's current prescriptions.

Prior authorization is a safeguard that can allow health care consumers to save millions of dollars. In 2019, [CAQH](#) reported that switching to fully electronic prior authorizations could save \$454 million for both plans and providers.¹ If the removal of prior authorizations for telehealth is included in Rhode Island's budget, the state may see an astronomical increase in health care spending within the next 18 months.

Whether or not to include prior authorization or other medical management tools is a function of health insurance plan design – which is best undertaken by employer plan sponsors like ERIC member companies and health insurance experts – not by governmental bodies being lobbied by special interests. ***If Rhode Island moves forward with efforts to take away plan design discretion from plan sponsors and insurers, Rhode Island patients can expect higher costs and lower quality care.***

(4) Conclusion

Thank you for requesting our comments and allowing us to share ERIC's views. The ERISA Industry Committee and our member companies are committed to working with you to expand and improve telehealth for millions of patients, including beneficiaries in Rhode Island. If you have any questions, or if we can be of further assistance, please contact me at jgelfand@ERIC.org or 202-789-1400.

Sincerely,



¹ "Conducting Electronic Transactions: Why Greater Harmonization Across the Industry is Needed," 2019 CAQH Index, <https://www.caqh.org/sites/default/files/explorations/index/report/2019-caqh-index.pdf?token=SP6YxT4u>