American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

August 27, 2020

Thomas J. Engels
Administrator
Health Resources and Services Administration
Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

Dear Administrator Engels:

On behalf of our 42,000 members, the American College of Emergency Physicians (ACEP) thanks you for your continued efforts to respond to the novel coronavirus (COVID-19) public health emergency (PHE).

Over the last several months, the Health Resources and Services Administration (HRSA) has been administering the COVID-19 Uninsured Program. This important program provides reimbursement at Medicare rates for COVID-19 treatment and testing and testing-related services delivered to patients who are uninsured. As emergency physicians, we appreciate the opportunity to participate in the program. By law and by oath, we treat all patients that come into our emergency departments (ED) regardless of their ability to pay. EDs across the country serve as the nation's safety net— and because of this role that EDs play in the health care system, emergency physicians tend to treat a higher proportion of uninsured patients than other providers. In fact, according to the Centers for Disease Control and Prevention's (CDC) 2017 National Ambulatory Medical Care Survey (NAMCS), nationally patients with no insurance represent eight percent of ED visits[1] (although this percentage varies across the country). **However, surprisingly, we are receiving numerous reports from emergency physicians that seemingly legitimate claims under the Uninsured Program are being denied. As outlined below, we are requesting that HRSA make programmatic changes to the Uninsured Program to address the underlying issues that are causing these denials.**

Many of the eligible claims emergency physicians are submitting to the Uninsured Program fall under the "testing-related services" portion of the program. Individuals are coming to the ED with symptoms that the Centers for Disease Control and Prevention (CDC) has identified as being suspicious for COVID-19 infection[2] and we evaluate them as a possible COVID-19 case. According to the billing and reimbursement rules on HRSA's Uninsured Program website[3], in order for diagnostic

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[1] The Centers for Disease Control and Prevention. The National Hospital Ambulatory Medical Care Survey: 2017 Emergency Department Summary Tables. https://www.cdc.gov/nchs/data/nhamcs/web_tables/2017_ed_web_tables-508.pdf.
[2] The Centers for Disease Control and Prevention. Symptoms of Coronavirus. https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html.
[3] HRSA COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing and Treatment of the Uninsured Billing Codes. https://coviduninsuredclaim.linkhealth.com/billing-codes.html.

testing and testing-related services to be eligible for reimbursement, claims submitted for testing-related visits rendered in an office, urgent care or emergency room, or via telehealth setting must include one of the following diagnosis codes:

Z03.818
Encounter for observation for suspected exposure to other biological agents ruled out (possible exposure to COVID-19)
Z20.828
Contact with and (suspected) exposure to other viral communicable (confirmed exposure to COVID-19)
Z11.59
Encounter for screening for other viral diseases (asymptomatic)

One of these three diagnosis codes must be included on any line of the claim. ACEP believes that this is a reasonable policy. However, there is a major limiting factor buried in the terms and conditions of the Program that is causing many of these testing-related services claims to ultimately be denied.

The "Families First Coronavirus Response Act (FFCRA) Relief Fund Payment Terms and Conditions" defines testing-related services as items and services "furnished to an individual during health care provider office visits (including in-person visits and telehealth visits), urgent care center visits, and emergency room visits ***that result in an order for or administration of COVID-19 Testing*** but only to the extent such items and services relate to the furnishing or administration of such product or to the evaluation of such individual for purposes of determining the need of such individual for such product." [***emphasis added***][4]

Unfortunately, it simply is not always possible or practical to test patients for COVID-19 during an ED encounter. There continues to be shortages of tests in many areas in the country and patients may be evaluated with suspicion of COVID-19 infection, but for whom no definitive testing resources are available. Further, the billing code for the test itself usually appears on the facility claim that the hospital submits, not the professional claim that emergency physicians are submitting for reimbursement under this program. Therefore, even if a test is ordered or administered, the emergency physician has no way of providing documentation to HRSA to prove that a test was in fact ordered or administered. As a result, numerous emergency physicians' claims are being denied, and physicians are not allowed under the current rules of the program to appeal these denied claims.

We also have a concern with how treatment services are defined under the Uninsured Program. The current requirement for providers to "use primary diagnosis U07.1 to indicate COVID-19 is the primary reason for treatment" as a sole determinant of whether the claim is appropriate for reimbursement does not reflect the current practice realities related to care of patients presenting for evaluation of potential COVID-19 infection. As alluded to earlier, the CDC issued updated guidance on May 13, 2020 that patients with a wide variety of symptoms may be experiencing COVID-19 infection and that ALL patients with these symptoms (not just limited to respiratory symptoms as promulgated in earlier guidance) must be treated as Persons Under Investigation (PUI).[5]

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[4] The Families First Coronavirus Response Act (FFCRA) Relief Fund Payment Terms and Conditions https://www.hhs.gov/sites/default/files/terms-and-conditions-ffcra-relief-fund.pdf?language=en.
[5] The Centers for Disease Control and Prevention. Symptoms of Coronavirus. https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html.

Based upon the testing-related issues raised above, as well as the CDC guidance that ALL patients presenting for evaluation of symptoms consistent with potential COVID-19 infection, be treated presumptively for that condition, we are requesting the following changes to administration of the Uninsured Program:

- **Provide reimbursement for testing-related services when patients with COVID-like symptoms are evaluated in the ED regardless of whether a COVID-19 test was performed or information about the test is included on the professional claim.**
- **Provide reimbursement, including for treatment, for all ED visits where the patient presented with symptoms and/or a diagnosis consistent with the CDC guidance listing symptoms of COVID-19 infection.**

Making these programmatic changes will allow emergency physicians and other frontline providers to appropriately receive reimbursement for otherwise legitimate claims, providing them with necessary financial relief during this difficult time. This is especially important because emergency physicians and the practice groups they work in are facing significant financial constraints due to the COVID-19 PHE. While EDs in hot spots have experienced a surge of patients with possible or actual cases of COVID-19, many other EDs across the country have actually experienced a significant reduction in volume since the COVID-19 pandemic began. This reduction has been caused in part by government calls to stay at home, which in turn has led to fewer accidents and other traumatic injuries. However, unfortunately, we have also seen that individuals that needed to seek immediate care for medical emergencies either delayed care or avoided care altogether.

In all, many emergency medicine groups are struggling to stay operational and continue to serve their communities—and we are relying on financial support, such as through the general and targeted distributions from the Provider Relief to maintain our ability to care for all patients that require emergency care. However, to date, emergency physicians have only received a small fraction of what they need to cover their lost revenues and increased expenses due to COVID-19. We have previously written to the Secretary of the Department of Health and Human Services (HHS) to request additional funding from the Provider Relief Fund,[6] but as we wait for those issues to be addressed, receiving appropriate reimbursement through HRSA's Uninsured Program has become even more critical.

We therefore appreciate the opportunity to share our concerns on implementation of the program with you. If you have any questions, please contact Jeffrey Davis, ACEP's Director of Regulatory Affairs at jdavis@acep.org.

Sincerely,

William P. Jaquis, MD, MSHQS, FACEP
ACEP President

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[6] ACEP has written four letters to the HHS Secretary regarding the allocation of the Provider Relief Fund. On March 27, 2020, ACEP sent a letter asking that HHS prioritize funding for frontline health care workers, especially emergency physicians, who are risking their lives combating the virus and are at the highest risk of being exposed to COVID-19 and missing work. On April 3, 2020, ACEP sent a follow-up letter specifically requesting $3.6 billion to support emergency physician practices. On April 14, 2020, ACEP sent another letter reiterating our previous requests and expressing our questions and concerns about the initial $30 billion wave of funding and the associated terms and conditions that health care providers must agree to keep their share of the funds. Finally on June 1, 2020, ACEP wrote a letter asking that HHS reserve a portion of the $75 billion that Congress provided in the Paycheck Protection Program and Health Care Enhancement Act to cover the remaining balance of the $3.6 billion request.