

ISSUE BRIEF



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Support Regulatory Framework for Medically Fragile Patients Receiving Private Duty Nursing Services

The COVID-19 pandemic necessitated significant changes to how providers deliver in-home care to medically complex and fragile children. We applaud the Centers for Medicare and Medicaid Services (CMS) and the Department of Health & Human Services (HHS) for supporting Home & Community-based providers by granting regulatory flexibilities during the pandemic. These flexibilities have allowed providers to deliver medically necessary care in a safe and effective manner without jeopardizing the health and welfare of patients and staff as well as highlight the need for a private duty nursing services (PDN) specific regulatory framework. States that have chosen to cover PDN under their Medicaid program require PDN providers to enroll as Medicare-certified Home Health Agencies and therefore are required to follow the home health Conditions of Participation which are intended for traditional intermittent home health services, not continuous PDN. As the Public Health Emergency unwinds, legislators and regulators should establish a standardized approach for PDN to ensure patients receive access under the federal Early Periodic Screening Diagnostic Treatment (EPSDT) law.

Support medically complex patients by mandating CMS establish a PDN regulatory framework that allows the following:

- ✓ PDN virtual supervisory visits
- ✓ 6-12-month PDN certification periods for certain patients
- ✓ for school hours at home when child is out of school
- ✓ states to adopt skilled family caregiver models to address workforce shortages and supplement PDN
- ✓ virtual visits for required PDN face to face (FTF) encounters

Rationale

- Patients over paperwork - ease administrative burden without sacrificing clinical quality while reducing exposure risk
- Virtual supervision visits reduce travel time and patient exposure
- Virtual visits increase access to care in rural communities
- Longer certification periods decrease family anxiety. Other long-term services authorize care for up to a calendar year due to their long-term chronic diagnosis
- Allows vulnerable/at-risk patients to stay at home, reducing exposure risks
- Allow for continuity of care when a child goes from nursing at school to nursing at home. When school is out, transfer school hours to home-based care
- Addresses workforce shortages and challenges exacerbated by COVID-19, the great recession, and inflation.

Literature to Support Patient over Paperwork

- *The Federal Trade Commission (FTC) supported the use of telemedicine in a May 29, 2020 letter to CMS writing: "When used properly, telemedicine has considerable promise as a mechanism to broaden access, lower costs, and improve health care quality."*
- *Patients Over Paperwork Initiative: CMS is eliminating overly-burdensome and unnecessary regulations and guidance to allow providers and suppliers to focus on their primary mission – improving their patients' health. CMS is removing barriers to unleashing innovation.*
- *On June 23, 2020 a press release entitled, CMS Unveiled Major Organizational Change to Reduce Provider and Clinician Burden and Improve Patient Outcomes, which outlines steps for operationalizing regulatory reform.*