June 1, 2021

More Regulation for Urgent Care and Retail Clinics?

During the pandemic, urgent care and retail clinics have served a key role in meeting the high demand for COVID-19 testing and treatment. However, a recently published briefing report, Making "Convenient Care" the Right Care for All: Improving State Oversight of Urgent Care Centers and Retail Health Clinics (the Report), raises concerns about whether such delivery sites are adequately regulated and whether, in the absence of additional regulation, access to care is being denied to certain populations. The Report was published by two consumer advocacy groups, the Community Catalyst and the National Health Law Program, and draws on the results of a 50-state survey, which is included in the Report.

The Report found that only about 10 states directly regulate or license urgent care or retail clinics, with the rest of the states allowing such clinics to function as physician's offices, which are generally not regulated by any state agency. In the absence of state regulation, such sites function independently and can choose which payers they accept. The Report cites a 2019 survey that estimated 30 percent to 40 percent of urgent care centers refuse to treat patients with Medicaid. The Report concludes that without state-based requirements to accept patients regardless of payment source, there is no way to ensure low-income patients are able to access and afford services at these sites of care.

Another issue raised in the Report is the lack of continuity of care. Because these visits are generally episodic and illness- or injury-related, there is no formal mechanism for follow-up, continuity of care or coordination with the patient's primary care provider. Such episodic care can raise quality issues.

The Report concludes that "the urgent care and retail provider landscape needs greater oversight and regulation to ensure that this growing service market can adequately meet the health care needs of vulnerable groups" and provides a series of recommendations. What the Report misses, however, is that these delivery sites are often the most cost-effective option for health care services, and adding additional regulatory requirements will result in increased costs, potentially decreasing accessibility for even more individuals. While the Report raises important concerns, more study is needed to determine the right balance between regulation and access.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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