

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

Chapter 49 Telehealth Services

Authority: Health-General Article, §§2-104(b) and 15-105.2(b), Annotated Code of Maryland; Ch. 280, Acts of 2013

.01 Scope.

A. This chapter applies to telehealth programs reimbursed by the Maryland Medicaid Program effective October 1, 2015.

B. The purpose of providing medically necessary services via telehealth is to improve:

- (1) Access to outpatient specialty care and psychiatric services, thus reducing preventable hospitalizations and reducing barriers to health care access;
- (2) Access to outpatient and inpatient psychiatric subspecialty consultation, thus improving diagnostic clarification, treatment recommendations, and planning for the individual;
- (3) Health outcomes through timely disease detection and treatment options; and
- (4) Capacity and choice for ongoing outpatient treatment in underserved areas of the State.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “Administrative services organization (ASO)” means an entity that manages the Public Behavioral Health System on behalf of the Department.
- (2) “Campus” means the physical area immediately adjacent to the provider’s main buildings, other areas, and structures that are not strictly contiguous to the main buildings but are located on the same property, and any other areas determined on an individual-case basis by the Department to be part of the provider’s campus.
- (3) “Community-based substance use disorder provider” means a provider licensed by the Department as a community-based substance use disorder provider in accordance with COMAR 10.09.80.
- (4) “Department” means the Department of Health and Mental Hygiene, which is the single State agency designated to administer the telehealth program.
- (5) “Distant site” means a site approved by the Department to provide telehealth services, at which the licensed distant site provider is located at the time the service is provided via technology-assisted communication.
- (6) “Distant site provider” means the licensed provider at the distant site who provides medically necessary consultation services to the patient at the originating site via telehealth upon request from the originating site provider.
- (7) “Federally qualified health center (FQHC)” has the meaning stated in Health-General Article, §24-1301, Annotated Code of Maryland.
- (8) “Medically necessary” means that the service or benefit is:
 - (a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;
 - (b) Consistent with currently accepted standards of good medical practice;

- (c) The most cost-efficient service that can be provided without sacrificing effectiveness or access to care; and
- (d) Not primarily for the convenience of the consumer, family, or provider.
- (9) “Opioid treatment program” means a program licensed by the Department in accordance with COMAR 10.09.80.
- (10) “Originating site” means the location of an eligible Medicaid participant at the time the service being furnished via technology-assisted communication occurs, which is a site approved by the Department to provide telehealth services.
- (11) “Professional fee” means:
- (a) For telemedicine services, the Departmental fee schedule for clinical somatic services, that is incorporated by reference in COMAR 10.09.02.07; or
- (b) For telemental health services, the Departmental fee schedule for clinical behavioral health services, that is incorporated by reference in COMAR 10.09.59.09.
- (12) “Provider” means:
- (a) An individual, association, partnership, corporation, unincorporated group, or any other person authorized, licensed, or certified to provide services for Medical Assistance participants and who, through appropriate agreement with the Department, has been identified as a Maryland Medical Assistance Provider by the issuance of an individual account number;
- (b) An agent, employee, or related party of a person identified in §B(10)(a) of this regulation; or
- (c) An individual or any other person with an ownership interest in a person identified in §B(10)(a) of this regulation.
- (13) “Psychiatric nurse practitioner” means an advanced practice registered nurse whose certification and licensing indicates CRNP-PMH.
- (14) “Public Behavioral Health System” means the system that provides medically necessary behavioral health services for Medical Assistance participants and certain other uninsured individuals, including mental health and substance use disorder services.
- (15) “Residential crisis services site” means a facility that provides intensive mental health and support services that are:
- (a) Provided to a child or an adult with mental illness who is experiencing or is at risk of a psychiatric crisis that would impair the individual’s ability to function in the community; and
- (b) Designed to prevent a psychiatric inpatient admission, provide an alternative to psychiatric inpatient admission, shorten the length of inpatient stay, or reduce the pressure on general hospital emergency departments.
- (16) “Store and Forward technology” means the transmission of medical images or other media captured by the originating site provider and sent electronically to a distant site provider, who does not physically interact with the patient located at the originating site.
- (17) “Technology-assisted communication” means multimedia communication equipment permitting two-way real-time interactive communication between a patient at an originating site and a distant site provider at a distant site.
- (18) “Telehealth” means the delivery of medically necessary services to a patient at an originating site by distant site provider, through the use of technology-assisted communication.
- (19) “Telehealth Program” means the program by which medically necessary services are authorized to be delivered via technology-assisted communication between originating and distant site providers.
- (20) “Telemedicine” means the delivery of medically necessary somatic services to a patient at an originating site by a distant site provider, through the use of technology-assisted communication.
- (21) “Telemental health” means the delivery of medically necessary behavioral health services to a patient at an originating site by a distant site provider, through the use of technology-assisted communication.
- (22) “Transmission fee” means the amount the Department reimburses an approved originating site for the telehealth transmission.

.03 Approval.

The Department shall grant approval to allow originating and distant site providers to receive State and federal funds for providing telehealth services if the telehealth provider meets the requirements of this chapter.

.04 Service Model.

- A. Telehealth improves access to distant site providers from other areas of the State, the District of Columbia, or a contiguous state.
- B. Telehealth providers may be part of a private practice, hospital, or other health care system.
- C. Medical Assistance-approved originating site providers shall engage in agreements with distant site providers for telehealth services.
- D. Professional services rendered via telehealth are reimbursed on a fee-for-service basis.

.05 Covered Services.

Under the Telehealth Program, the Department shall cover:

- A. Medically necessary services covered by the Maryland Medical Assistance Program rendered by an originating site provider that are distinct from the telehealth services provided by a distant site provider;
- B. Medically necessary services covered by the Maryland Medical Assistance Program rendered by an approved distant site provider that can be delivered using technology-assisted communication.
- C. An approved originating site for the transmission fee;
- D. The professional fee for an approved distant site provider for initial telehealth services furnished before, during, and after communicating with the Medical Assistance participant presenting in a hospital emergency department setting if:
 - (1) The distant site provider is not the physician of record or the attending physician; and
 - (2) The initial telehealth service is distinct from the care provided by the physician of record or the attending physician;
- E. The following mental health services:
 - (1) Diagnostic interview;
 - (2) Individual therapy, with or without medication evaluation and management;
 - (3) Family therapy, with or without the identified patient;
 - (4) Outpatient evaluation and management for a new or established patient;
 - (5) Outpatient office consultation for a new or established patient;
 - (6) Initial inpatient consultation for a new or established patient; and
 - (7) Emergency department services.

.06 Participant Eligibility.

A participant is eligible to receive telehealth services if the individual:

- A. Is enrolled in the Maryland Medical Assistance Program on the date the service is rendered;
- B. Consents to telehealth services unless there is an emergency that prevents obtaining consent, which the originating site shall document in the participant's medical record;
- C. Is present at the originating site at the time the telehealth service is rendered; and
- D. Is authorized to receive behavioral health treatment services through the Public Behavioral Health System, except for behavioral health services provided in a hospital emergency department.

.07 Provider Conditions for Participation.

A. To participate in the Program, the provider shall:

- (1) Be enrolled as a Medical Assistance Program provider on the date the service is rendered;
- (2) Meet the requirements for participation in the Maryland Medical Assistance Program as set forth in:

- (a) COMAR 10.09.36.02;
- (b) COMAR 10.09.36.03; and
- (c) The COMAR chapter defining the covered service being rendered;
- (3) Apply for participation in the Program using the application form designated by the Department;
- (4) Be approved for participation by the Department;
- (5) Have a written contingency plan when telehealth is unavailable; and
- (6) If a behavioral health service provider, be registered as a provider through the ASO on the date the service is rendered.

B. Approved Originating Site. The following sites may be approved as an originating site for Telehealth Program service delivery:

- (1) A college or university student health or counseling office;
- (2) A community-based substance use disorder provider;
- (3) An elementary, middle, high, or technical school with a supported nursing, counseling or medical office;
- (4) A local health department;
- (5) A FQHC;
- (6) A hospital, including the emergency department;
- (7) A nursing facility;
- (8) The office of a physician, psychiatric nurse practitioner, nurse practitioner, or nurse midwife;
- (9) An opioid treatment program;
- (10) An outpatient mental health center;
- (11) A renal dialysis center; or
- (12) A residential crisis services site.

C. Approved Distant Site. The following provider types who practice within the State, the District of Columbia, or a contiguous state may be approved as distant site providers for Telehealth Program consultation services:

- (1) A nurse midwife;
- (2) A nurse practitioner;
- (3) A psychiatric nurse practitioner; or
- (4) A physician.

.08 Technical Requirements.

A. A provider of health care services delivered through telehealth shall adopt and implement technology in a manner that supports the standard of care to deliver the required service.

B. A provider of health services delivered through telehealth shall, at a minimum, meet the following technology requirements:

- (1) A camera that has the ability to manually or under remote control provide multiple views of a patient with the capability of altering the resolution, focus, and zoom requirements according to the consultation;
- (2) Audio equipment that ensures clear communication and includes echo cancellation;
- (3) Bandwidth speed and image resolution sufficient to provide quality video to meet a minimum of 15 frames per second, or higher, as industry standards change;
- (4) Display monitor size sufficient to support diagnostic needs used in the telemedicine services; and
- (5) Create video and audio transmission with less than 300 millisecond delay.

.09 Confidentiality.

The originating and distant site providers:

A. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

(1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended;

B. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations at the originating site, at the distance site, and in the transmission process;

C. May not disseminate any participant images or information to other entities without the participant's consent, unless there is an emergency that prevents obtaining consent; and

D. May not store at originating and distant sites the video images or audio portion of the telemedicine service for future use.

.10 Medical Records.

A. The originating and distant site providers shall maintain documentation in the same manner as during an in-person visit or consultation, using either electronic or paper medical records.

B. Telehealth records shall be retained according to the provisions of Health-General Article, §4-403, Annotated Code of Maryland.

C. The participant has access to all transmitted medical information, with the exception of live interactive video as there is often no stored data in such encounters.

.11 Limitations.

A. A service provided through telehealth is subject to the same program restrictions, preauthorizations, limitations, and coverage that exist for the service when provided other than through telehealth.

B. A telehealth service does not include:

(1) An audio-only telephone conversation between a health care provider and a patient;

(2) An electronic mail message between a health care provider and a patient;

(3) A facsimile transmission between a health care provider and a patient; or

(4) A telephone conversation, electronic mail message, or facsimile transmission between the originating and distant site providers without interaction between the distant site provider and the patient.

C. "Store and Forward technology" does not meet the Maryland Medical Assistance Program's definition of telehealth.

D. Telehealth-delivered services may not bill to the Maryland Medical Assistance Program or to the ASO when technical difficulties preclude the delivery of part or all of the telehealth session.

E. The Department may not reimburse for consultation that occurs during an ambulance transport.

F. The Department may not reimburse for services that:

(1) Require in-person evaluation; or

(2) Cannot be reasonably delivered via telehealth.

G. The Department may not reimburse distant site providers for a facility fee.

H. The Department may not reimburse for originating site transmission fees billed using both the physicians' services fee and the Health Services Cost Review Commission fee.

I. The Department may not reimburse for home health monitoring services.

J. The Department may not reimburse for telehealth services delivered by an originating and distant site provider located in different facilities in the same campus.

.12 Reimbursement.

A. To receive reimbursement for telemedicine services, providers shall be actively enrolled with Maryland Medical Assistance.

B. There are two categories of fees that the Department shall reimburse an approved telehealth provider, as applicable:

- (1) Originating site transmission fee; and
- (2) Professional fee.

C. Originating Site Transmission Fee.

(1) The telehealth transmission fee is set:

(a) In the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR 10.09.02.07; or

(b) By the Health Services Cost Review Commission for sites located in regulated space.

(2) Originating sites shall use the appropriate telehealth service modifier.

(3) Transmission fees paid to the originating site may be used to pay for:

(a) Line or per minute usage charges, or both; and

(b) Any additional programmatic, administrative, clinical, or contingency support at the originating site.

D. Professional Fee.

(1) The professional fee shall be:

(a) For telemedicine services, for both originating and distant site providers, as set forth in the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR 10.09.02.07; or

(b) For telemental health services, for both originating and consulting site providers, as set forth in the Departmental fee schedule for clinical services, which is incorporated by reference in COMAR 10.09.59.09.

(2) Professional fees charged for telehealth services shall be billed with the appropriate telehealth service modifier.

Administrative History

Effective date: September 30, 2013 (40:19 Md. R. 1546)

Regulation .01 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .01A amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .02B amended effective April 28, 2014 (41:8 Md. R. 471); December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300); April 11, 2016 (43:7 Md. R. 449)

Regulation .03 amended effective December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300)

Regulation .04 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .04D amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .05 amended effective December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300)

Regulation .05B, D amended effective April 11, 2016 (43:7 Md. R. 449)

Regulation .06 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .06B amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .07 amended effective December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300)

Regulation .07B amended effective April 11, 2016 (43:7 Md. R. 449)

Regulation .08 amended effective April 28, 2014 (41:8 Md. R. 471); October 26, 2015 (42:21 Md. R. 1300)

Regulation .09 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .10A, B amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .11 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .11I, J adopted effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .12A, B amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .12 repealed and new Regulation .12 adopted effective October 26, 2015 (42:21 Md. R. 1300)