OVERVIEW OF AMENDMENTS

The Telemedicine Services Medical Policy is under amendment as a component of the Health and Human Services Commission (HHSC) implementation of S.B. 1107 (85th Legislature, 2017). Major amendments related to S.B. 1107 include:

- Revising the definition of telemedicine medical services within Texas Medicaid.
- Removing patient site presenter requirements, with an exception for school-based telemedicine medical services.
- Removing requirements for initial in-person, face-to-face visits between the physician and the patient prior to the telemedicine medical service.
- Distinguishing between the reimbursable fee-for-service (FFS) and managed care telemedicine medical services delivery modalities.
- Adding requirements for valid prescriptions generated from a telemedicine medical service.

OUT OF SCOPE

- Changes to procedure codes that can be reimbursed as telemedicine medical services.

TELEMEDICINE SERVICES (PHYSICIAN-DELIVERED SERVICES)
Important Notes

National Correct Coding Initiative (NCCI)

The Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) codes included in this policy are subject to National Correct Coding Initiative (NCCI) relationships guidelines. According to federal law, Texas Medicaid and the CSHCN Services Program may impose stricter limitations than are imposed by the Centers for Medicare & Medicaid Services (CMS). Additional restrictions made by Texas Medicaid and the CSHCN Services Program may be outlined in the Texas Medicaid and CSHCN Services Program medical policies. Providers should refer to the Centers for Medicare & Medicaid Services (CMS) NCCI web page at www.cms.gov for correct coding guidelines and specific applicable code combinations.

In instances when Texas Medicaid or CSHCN Services Program medical policy is more restrictive than NCCI MUE guidance, Texas Medicaid or CSHCN Services Program medical policy prevails.

Medicaid Managed Care Organizations (MCOs) and Medical Necessity

Texas Medicaid managed care organizations (MCOs) must provide all medically necessary, Medicaid-covered services to eligible clients. Administrative procedures such as prior authorization, pre-certification, referrals, and claims/encounter data filing may differ from traditional Medicaid (fee-for-service) and from MCO to MCO. Providers should contact the client's specific MCO for details.

Early Periodic Screening Diagnostic, and Treatment (EPSDT) and Medical Necessity

Under the Early Periodic Screening Diagnostic, and Treatment (EPSDT) regulation, known in Texas as Texas Health Steps (THSteps), Section 1905(r) of the Social Security Act mandates that all Medicaid eligible beneficiaries who are birth through 20 years of age receive medically necessary services to treat, correct and ameliorate illnesses and conditions identified if the service is covered in the state's Medicaid plan or is an optional Medicaid service. It is the responsibility of the state to determine medical necessity on a case specific basis. No arbitrary limitations on services are allowed (e.g. one pair of eyeglasses or 10 therapy sessions per year) if determined to be medically necessary.

Services not covered under this section include:

- Experimental or investigational treatment;
- Services or items not generally accepted as effective and/or not within the normal course and duration of treatment;
- Services for the caregiver or provider convenience.

All EPSDT requirements must be adhered to for beneficiaries who receive services under managed care arrangements.
Statement of Benefits

1. Telemedicine medical services are a benefit of Texas Medicaid. Telemedicine medical services are defined as health care services delivered by a physician licensed in this state, or a health professional acting under the delegation and supervision of a physician licensed in this state, and acting within the scope of the physician’s or health professional’s license to a patient at a different physical location than the physician or health professional using telecommunications or information technology.

2. Telemedicine medical services must be provided in compliance with standards established by the respective licensing or certifying board of the professional providing the services. Use of telemedicine medical services within intermediate care facilities for individuals with intellectual disabilities (ICF-IID) and/or State Supported Living Centers is subject to the policies established by Health and Human Services Commission (HHSC).

Patient Site

3. A patient site is the place where a patient is physically located.

4. Patient site providers must also be enrolled in Texas Medicaid to be eligible for reimbursement for the patient site facility fee.

Distant Site

5. A distant site is the location of the Texas Medicaid provider rendering the service.

6. A distant site provider is the physician, physician assistant (P.A.), or advanced practice nurse (A.P.R.N.) who is supervised by and has delegated authority from a licensed Texas physician, who uses telemedicine medical services to provide health care services to a patient in Texas.

6.1. Distant site providers must be licensed in Texas.

6.2. An out-of-state physician who is a distant site provider may provide episodic telemedicine medical services without a Texas medical license, as outlined in Texas Occupations Code § 151.056, and 22 Texas Administrative Code §§172.2(g)(4) and 172.12(f).

6.3. Distant site providers who provide mental health services must be appropriately licensed or certified in Texas, or be a qualified mental health professional-community services (QMHP-CS), as defined in 25 Texas Administrative Code §412.303(48).

6.4. Distant site providers must also be enrolled in Texas Medicaid to be eligible for reimbursement for telemedicine medical services.

7. A valid practitioner-patient relationship must exist between the distant site provider and the patient receiving the telemedicine medical services. A valid practitioner-patient relationship exists between the distant site provider and the patient if the distant site provider meets the same standard of care required for an in-person service. The valid practitioner-patient relationship can be established through a telemedicine medical service that meets the delivery modality requirements specified in Texas Occupations Code §111.005(a)(3). A valid practitioner-patient relationship can also be established through a call coverage agreement established in accordance with Texas Medical Board (TMB) administrative rules in 22 Texas Administrative Code §177.20.

8. Facility types recognized in this medical policy may also serve as the distant site provider.
The distant site provider must obtain informed consent to treatment from the patient, patient’s parent, or the patient’s guardian prior to rendering a telemedicine medical service.

Distant site providers that communicate with patients using electronic communications methods other than phone or facsimile must provide patients with written notification of the physicians’ privacy practices prior to evaluation and treatment via a telemedicine medical service.

A good faith effort must be made to obtain the patient's written acknowledgment, including by email response, of the notice.

A distant site provider should provide patients who receive a telemedicine medical service with guidance on appropriate follow-up care.
Telemedicine Medical Service Delivery Modalities

12 The following modalities may be used to deliver telemedicine medical services within fee-for-service (FFS) Medicaid:

12.1 Synchronous audiovisual interaction between the distant site provider and the patient in another location.

12.2 Asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the distant site provider and the patient in another location. The distant site provider would need to use:

12.2.1 Clinically relevant photographic or video images, including diagnostic images, or

12.2.2 The patient’s relevant medical records, such as medical history, laboratory and pathology results, and prescriptive histories, or

12.2.3 Other forms of audiovisual telecommunication technologies that allow the distant site provider to meet the in-person visit standard of care.

13 A health benefit plan, including a Texas Medicaid managed care organization (MCO), is not required to provide reimbursement for telemedicine medical services that are provided through only synchronous or asynchronous audio interactions, including:

13.1 An audio-only telephone consultation, or

13.2 A text-only email message, or

13.3 A facsimile transmission.

14 Texas Medicaid MCOs may optionally provide reimbursement for telemedicine medical services that are provided through only synchronous or asynchronous audio interactions. Distant site providers should contact each MCO to determine whether an MCO provides reimbursement for a specified modality.

Prescriptions Generated from a Telemedicine Medical Service

15 A distant site provider may issue a valid prescription as part of a telemedicine medical service.

15.1 An electronic prescription (e-script) may be used, as permitted by applicable federal and state statutes and rules.

16 The same standards that apply for the issuance of a prescription in an in-person setting apply to prescriptions issued by a distant site provider.

17 The prescription must be issued for a legitimate medical purpose by the distant site provider as part of a valid patient-practitioner relationship.
The prescribing physician must be licensed in Texas.

18.1 If the prescription is for a controlled substance, the prescribing physician must have a current valid U.S. Drug Enforcement Administration (DEA) registration number.

A licensed health professional acting under the delegation and supervision of a physician licensed in Texas may also issue a valid prescription. Prescribing must be done in accordance with the required prescriptive authority agreement or other forms of delegation.

19.1 If the prescription is for a controlled substance, the health professional must have a current valid DEA registration number. If the prescription is for a schedule II controlled substance, the health professional may only use the official prescription forms issued with their name, address, phone number. DEA registration number, delegating physician’s name, and delegating physician’s DEA registration number.

As applicable, all drug prescriptions must meet the requirements of the Texas Controlled Substances Act (Texas Health and Safety Code Chapter 481), the Texas Dangerous Drug Act (Texas Health and Safety Code Chapter 483), and any other federal or state statutes or rules.

Treatment of a patient for chronic pain with scheduled drugs using telemedicine medical services is prohibited, as provided by 22 Texas Administrative Code §174.5(e). Chronic pain is defined in 22 Texas Administrative Code §170.2(4).

Treatment of a patient for acute pain with scheduled drugs using telemedicine medical services is permitted, as provided by 22 Texas Administrative Code §174.5(e). Acute pain is defined in 22 Texas Administrative Code §170.2(2).

Provider Types

County Indigent Health Care Program
Physician Assistant
Nurse Practitioner/Clinical Nurse Specialist
Physician (D.O.)
Physician (M.D.)
Physician Group (D.O.s Only)
Physician Group (M.D.s Only and Multispecialty
Hospital - Long Term, Limited, or Specialized Care
Hospital - Private, Full Care
Hospital—Private, O/P Service/Emergency Care Only
Places of Service

Office
Home
Inpatient Hospital
Outpatient Hospital
Other Locations

Authorization Requirements

23 Authorization is not required for telemedicine medical services, however prior authorization may be required for the individual procedure codes billed. Refer to the individual procedure policy for prior authorization requirements.

Patient Health Information Security

24 The software system used by the distant site provider must allow secure authentication of the distant site provider and the patient.

25 The physical environments of the patient and the distant site provider must ensure that the patient's protected health information remains confidential.

25.1 A parent or legal guardian may be physically located in the patient site or distant site environment during a telemedicine medical service with a child.

25.2 A parent or legal guardian must provide written or verbal consent to the distant site provider to allow any other individual, other than a health professional as required by Texas Government Code §531.0217(c-4)(4) for school-based telemedicine medical services, to be physically present in the distant or patient site environment during a telemedicine medical service with a child.

25.3 An adult patient must also provide written or verbal consent to the distant site provider to allow any other individual to be physically present in the distant or patient site environment during a telemedicine medical service.

26 Providers of telemedicine medical services must maintain the confidentiality of protected health information (PHI) as required by 42 CFR Part 2, 45 CFR Parts 160 and 164, Chapters 111 and 159 of the Texas Occupations Code, and other applicable federal and state law.

26.1 Providers of telemedicine medical services must also comply with the requirements for authorized disclosure of PHI relating to patients in state mental health facilities and residents in state supported living centers, which are included in, but not limited to, 42 CFR Part 2, 45 CFR Parts 160 and 164, Texas Health and Safety Code §611.004, and other applicable federal and state law.

27 All patient health information generated or utilized during a telemedicine medical service must be stored by the distant site provider in a patient health record using software that complies with HIPAA confidentiality and data encryption requirements, as well as with HHS rules implementing HIPAA.
Providers may not disclose any medical information revealed by the patient or discovered by the provider in connection with the treatment of the patient via a telemedicine medical service, without proper authorization from the patient.

**Reimbursement**

Telemedicine medical services are reimbursed in accordance with 1 TAC Chapter 355.

Telemedicine medical services designated for reimbursement include:

- Consultations;
- Office or other outpatient visits;
- Psychiatric diagnostic interviews;
- Pharmacologic management;
- Psychotherapy; and
- Data transmission.

Preventive health visits under Texas Health Steps (THSteps), also known as Early and Periodic Screening, Diagnosis and Treatment program, are not reimbursed if performed using telemedicine medical services. Health care or treatment provided using telemedicine medical services after a THSteps preventive health visit for conditions identified during a THSteps preventive health visit may be reimbursed. Services provided via a telemedicine medical service for abnormalities identified during these preventive health visits are reimbursed separately to the distant site provider if an acute care evaluation and management procedure code is billed.

The audio and visual fidelity and clarity, and field of view of the telemedicine service must be functionally equivalent to an evaluation performed on a patient where the provider and patient are both at the same physical location.
Distant and patient site providers enrolled in Texas Medicaid may be reimbursed for telemedicine medical services by billing with their individual NPIs or TPIs.

Eligible patient site providers are authorized to bill for the patient site facility fee. The patient site facility fee is not available for reimbursement if the patient site is the patient's home.

More than one medically necessary telemedicine medical service may be reimbursed for the same date of service and the same place of service, if the services are billed by providers of different specialties.

Telemedicine medical services provided in a school-based setting by a physician, even if the physician is not the patient's primary care physician or provider, are reimbursed if:

- The physician is an authorized health care provider under Medicaid;
- The patient is a child who received the service in a primary or secondary school-based setting;
- The parent or legal guardian of the patient provides consent before the service is provided; and
- A health professional is present with the patient during treatment.

For telemedicine medical services provided in a school-based setting, reimbursement must still be provided if the physician delegates provision of services to a nurse practitioner, clinical nurse specialist, or physician assistant, provided that the nurse practitioner, clinical nurse specialist, or physician assistant is working within the scope of their professional license and within the scope of their delegation agreement with the physician.

**Telemedicine Medical Service Documentation Requirements**

Medical records must be maintained for all telemedicine medical services.

Documentation for a service provided via telemedicine must be the same as for a comparable in-person service.

If a patient has a primary care provider and the patient or their parent or legal guardian provides consent to a release of information, a distant site provider must provide the patient's primary care provider with the following information:

- A medical record or report with an explanation of the treatment provided by the distant site provider, and
- The distant site provider’s evaluation, analysis, or diagnosis of the patient.

For telemedicine medical services provided to a child in a school-based setting, a notification provided by the telemedicine medical services physician to the child's primary care provider must include a summary of the service, exam findings, prescribed or administered medications, and patient instructions.

If the child does not have a primary care provider, the notification must be provided to the child's parent or legal guardian. In addition to providing treatment information, the notification must include a list of primary care providers from which the child's parent or legal guardian may select a primary care provider.

**Procedure Codes**

**Distant Site Provider Procedure Codes**
The following procedure codes are benefits for distant site providers when billed with the 95 modifier. (Synchronous telemedicine medical service rendered via a real-time interactive audio and video telecommunications system.) Procedure codes that indicate remote (telemedicine medical services) delivery in their description do not need to be billed with the 95 modifier.

Table B: Procedure Codes—Distant Site Provider

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**NOTE:** Procedure codes for behavioral health services are subject to the benefits, diagnosis restrictions, and limitations as outlined in the Inpatient Behavioral Health and Outpatient Mental Health Services policies. Procedure codes 1-90833, 1-90836, and 1-90838 are add on codes and must be billed with a primary E/M code in order to be reimbursed.
Patient Site Provider Procedure Codes

43    A facility fee may be reimbursed to the patient site provider.

44    The following procedure code is a benefit for patient site providers.

Table C: Procedure Codes—Patient Site Provider

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45    The facility fee is only payable for telemedicine medical services. If other services are performed at the patient site, they may be billed separately.

Texas Medicaid Provider Procedures Manual

Telecommunications Services Handbook