

This drafted policy is open for a two-week public comment period. This box is not part of the drafted policy language itself and is intended for use only during the comment period to provide readers with a summary of what has changed.

HHSC is performing a language update of the Telemedicine Services (Physician Delivered Services) Medicaid medical policy to align with legislative changes outlined in S.B. 670 (86th Legislative Session, 2019).

The following is a summary of changes in scope for this policy review:

- Described how each Texas Medicaid Managed Care Organization (MCO) has the flexibility to determine which services to reimburse as telemedicine services.
- Added language indicating that MCOs may not deny reimbursement for an otherwise covered Texas Medicaid benefit solely because it was delivered remotely, per S.B.670
- Eliminated the requirement for a health professional to be present with a patient during a school-based telemedicine service, per S.B.670

All other policy language is out of scope for this review, however policy language that is out of scope for this review is included in this document for context. New policy language has been underlined and deleted language has been struck-through to highlight proposed policy changes.

Note: Once finalized, updated language regarding the Telemedicine Services benefit will be found in the Texas Medicaid Provider Procedures Manual (TMPPM), Vol 2: Telecommunications Handbook, Section 3.2.

Texas Medicaid

Telemedicine Services (Physician-Delivered Services)

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 the state of Texas, 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 the Health and Human Services Commission (HHSC).

- 3 Texas Medicaid Managed Care Organizations (MCOs) have flexibility in determining which services to reimburse as telemedicine medical services. Providers should contact each Medicaid MCO to determine coverage policies for telemedicine medical services.

Patient Site

- 4 A patient site is the place where a patient is physically located.
- 5 A patient's home may be a patient site for telemedicine medical services.
- 6 Patient site providers must also be enrolled in Texas Medicaid to be eligible for reimbursement for the patient site facility fee.

Distant Site

- 7 A distant site is the location of the Texas Medicaid provider rendering the service.
- 8 A distant site provider is the physician, or physician assistant (P.A.), nurse practitioner (N.P.), or clinical nurse specialist (C.N.S.) 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.
 - 8.1 Distant site providers must be licensed in Texas.
 - 8.2 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).
 - 8.3 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).
 - 8.4 Distant site providers must also be enrolled in Texas Medicaid to be eligible for reimbursement for telemedicine medical services.
- 9 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 prior in-person service, through a prior telemedicine medical service that

DRAFT POLICY -- OPEN FOR PUBLIC COMMENT

meets the delivery modality requirements specified in Texas Occupations Code §111.005(a)(3), or through the current telemedicine medical service. 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.

- 10 Facility types recognized in this medical policy may also serve as the distant site provider.
- 11 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.
- 12 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.
 - 12.1 A good faith effort must be made to obtain the patient's written acknowledgment, including by email response, of the notice.
- 13 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

- 14 The following modalities may be used to deliver telemedicine medical services within fee-for-service (FFS) Medicaid:
 - 14.1 Synchronous audiovisual interaction between the distant site provider and the patient in another location.
 - 14.2 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:
 - 14.2.1 Clinically relevant photographic or video images, including diagnostic images, or
 - 14.2.2 The patient's relevant medical records, such as medical history, laboratory and pathology results, and prescriptive histories, or
 - 14.3 Other forms of audiovisual telecommunication technologies that allow the distant site provider to meet the in-person visit standard of care.
- 15 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:

- 15.1 An audio-only telephone consultation, or
 - 15.2 A text-only email message, or
 - 15.3 A facsimile transmission.
- 16 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

- 17 A distant site provider may issue a valid prescription as part of a telemedicine medical service.
- 17.1 An electronic prescription (e-script) may be used, as permitted by applicable federal and state statutes and rules.
- 18 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.
- 19 The prescription must be issued for a legitimate medical purpose by the distant site provider as part of a valid practitioner-patient relationship.
- 20 The prescribing physician must be licensed in Texas.
- 20.1 If the prescription is for a controlled substance, the prescribing physician must have a current valid U.S. Drug Enforcement Administration (DEA) registration number.
- 21 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.
- 21.1 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 must comply with DEA regulations regarding the use of electronic prescriptions. The health professional may also 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.
- 22 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

DRAFT POLICY -- OPEN FOR PUBLIC COMMENT

rules.

- 23 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).
- 24 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

Table A. Places of Service- By Provider Type- Telemedicine

Site	Provider Type	Place of Service
Distant	County Indigent Health Care Program, Nurse Practitioner/Clinical Nurse Specialist, Physician Assistant, 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)	Office, Inpatient Hospital, Outpatient Hospital, Other Locations

Site	Provider Type	Place of Service
Patient (Facility Fee)	County Indigent Health Care Program, Nurse Practitioner/Clinical Nurse Specialist, Physician Assistant, Physician (D.O.), Physician (M.D.), Physician Group (D.O.s Only), Physician Group (M.D.s Only and Multispecialty)	Office, Outpatient Hospital
	Hospital (Long Term, Limited, or Specialized Care), Hospital (Private, Full Care), Hospital (Private, O/P Service/Emergency Care Only)	Outpatient Hospital

Authorization Requirements

- 24 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

- 25 The software system used by the distant site provider must allow secure authentication of the distant site provider and the patient.
- 26 The physical environments of the patient and the distant site provider must ensure that the patient's protected health information remains confidential.
- 26.1 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.
- 26.2 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.
- 26.3 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.
- 27 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

DRAFT POLICY -- OPEN FOR PUBLIC COMMENT

the Texas Occupations Code, and other applicable federal and state law.

27.1 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.

28 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. If the distant site provider stores the patient health information in an electronic health record, the provider should use software that complies with Health Insurance Portability and Accountability Act (HIPAA) confidentiality and data encryption requirements, as well as with U.S. Department of Health & Human Services (HHS) rules implementing HIPAA.

Reimbursement

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

30 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.

31 Distant and patient site providers enrolled in Texas Medicaid may be reimbursed for telemedicine medical services by billing with their individual NPIs or TPIs.

32 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.

33 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.

34 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:

34.1 The physician is an authorized health care provider under

Medicaid;

- 34.2 The patient is a child who received the service in a primary or secondary school-based setting; and
- 34.3 The parent or legal guardian of the patient provides consent before the service is provided

~~34.4 A health professional is present with the patient during treatment~~

35 For telemedicine medical services provided in a school-based setting, reimbursement must still be provided if the physician delegates provision of services to a PA, N.P., or C.N.S. provided that the PA, N.P., or C.N.S. is working within the scope of their professional license and within the scope of their delegation agreement with the physician.

36 Texas Medicaid MCO cannot deny reimbursement for a covered health care service or procedure delivered by a health care provider with whom the MCO contracts solely because the covered service or procedure is delivered via telecommunications.

36.1 Texas Medicaid MCOs must determine whether to reimburse for telemedicine services based on the cost-effectiveness and clinical-effectiveness of the service.

37 Medical records must be maintained for all telemedicine medical services.

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

39 If a patient has a primary care provider (PCP) who is not the distant site 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 PCP with the following information:

39.1 A medical record or report with an explanation of the treatment provided by the distant site provider, and

39.2 The distant site provider's evaluation, analysis, or diagnosis of the patient.

40 Unless the telemedicine medical services are rendered to a child in a school-based setting, distant site providers of mental health services are not required to provide the patient's PCP with a treatment summary.

41 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 PCP must include a summary of the service, exam findings, prescribed or administered medications, and patient instructions.

41.1 If the child does not have a PCP, the notification must be

DRAFT POLICY -- OPEN FOR PUBLIC COMMENT

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 PCP.

Procedure Codes

Distant Site Provider Procedure Codes

- 42 The following procedure codes are benefits for distant site providers when billed with the 95 modifier. (Synchronous telemedicine medical services 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

Procedure Code
1-90791
1-90792
*1-90832
*1-90833
*1-90834
*1-90836
*1-90837
*1-90838
1-90951
1-90952
1-90954
1-90955
1-90957
1-90958
1-90960
1-90961
1-99201
1-99202
1-99203
1-99204
1-99205
1-99211
1-99212

Procedure Code
1-99213
1-99214
1-99215
3-99241
3-99242
3-99243
3-99244
3-99245
3-99251
3-99252
3-99253
3-99254
3-99255
1-99354
1-99355
1-99356
1-99357
3-G0406
3-G0407
3-G0408
3-G0425
3-G0426
3-G0427
1-G0459

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

Procedure Code
1-Q3014

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