Reminder: Telemedicine and Telehealth Services
Benefit Policy Language Updated, Effective October 1, 2018

Note: 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.

This is a reminder that effective for dates of service on or after October 1, 2018, telemedicine and telehealth benefit policy language will be updated for Texas Medicaid. The policy updates are a component of the Health and Human Services Commission (HHSC) implementation of Senate Bill (S.B.) 1107 (85th Legislature, 2017). As additional S.B. 1107 implementation activities continue, HHSC authorizes providers to render telemedicine and telehealth services in accordance with the policy updates effective October 1, 2018.

Telemedicine Services Benefit Policy Language Updates

Telemedicine medical services benefits of Texas Medicaid. Telemedicine medical services are defined as:

- Health-care services delivered by a physician licensed in Texas
- Health-care services delivered by a health professional acting under the delegation and supervision of a physician licensed in Texas 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.

The use of telemedicine medical services within intermediate care facilities for individuals with intellectual disabilities (ICD-IID) and/or State Supported Living Centers is subject to the policies established by HHSC.

Patient Site

A patient site is the place where a patient is physically located. A patient’s home may be the patient site for telemedicine medical services.

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

Distant Site

A distant site provider is the physician or physician assistant (PA), nurse practitioner (NP), or clinical nurse specialist (CNS) who is supervised by and has delegated authority from a licensed Texas physician that uses telemedicine medical services to provide health-care services to a patient in Texas.

- Distant site providers must be licensed in Texas.
- 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
Distant site providers that 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 TAC §412.303(48).

A valid practitioner-patient relationship must exist between the distant site provider and the patient receiving telemedicine 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 and in-person service.

The relationship can be established through:

- A prior in-person service
- Through a prior telemedicine medical service that meets the delivery modality requirements specified in Texas Occupations Code §111.005(a)(3)
- Through the current telemedicine medical service

- The relationship can be established through a call coverage agreement established in accordance with Texas Medical Board (TMB) administrative rules in 22 TAC §177.20.

The distant site provider must obtain informed consent to treatment for 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 communication methods other than telephone or facsimile must provide patients with written notification of the physician’s privacy practices prior to evaluation and treatment via a telemedicine medical service.

A distant site provider should provide patients who receive a telemedicine medical service with guidance on the appropriate follow-up care.

**Telemedicine Medical Services Delivery Modalities**

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

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

- 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 one of the following:
  - Clinically relevant photographic or video images, including diagnostic images
  - The patient’s relevant medical records, such as medical history, laboratory and pathology results, and prescriptive histories
  - Other forms of audiovisual telecommunication technologies that allow the distant site provider to meet the in-person visit standard of care
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:

- An audio-only telephone consultation
- A text-only email message
- A facsimile transmission

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**

A distant site provider may issue a valid prescription as part of a telemedicine medical service. An electronic prescription (e-script) may be used as permitted by applicable federal and state statues and rules.

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

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

The prescribing physician must be licensed in Texas. 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 in accordance with the required prescriptive authority agreement or other forms of delegation.

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.

As applicable, all drug prescriptions must meet the requirements of the Texas Controlled Substance 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 TAC §174.5(e). Chronic pain is defined in 22 TAC §170.2(2).

Treatment of a patient for acute pain with scheduled drugs using telemedicine medical services is permitted, as provided by 22 TAC §174.5(e). Acute pain is defined by 22 TAC §170.2(2).
**Patient Health Information Security**

A parent or legal guardian must provide written or verbal consent to the distant site provider to allow any other individual, other than the 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.

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 HHS rules implementing HIPAA.

**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 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 primary care provider with the following information:

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

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 primary care provider with a treatment summary.

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.

**Telehealth Services Benefit Policy Language Updates**

Telehealth services are a benefit of Texas Medicaid. Telehealth services are defined as health-care services, other than telemedicine medical services, delivered by a health professional licensed, certified or otherwise entitled to practice in Texas and acting within the scope of the health professional’s license, certification or entitlement to a patient at a different physical location other than the health professional using telecommunications or information technology.
Telehealth services must be provided in compliance with standards established by the respective licensing or certifying board of the professional providing services. Use of telehealth services within intermediate care facilities for individuals with intellectual disabilities (ICD-IID) and/or State Supported Living Centers is subject to the policies established by HHSC.

**Patient Site**

A patient’s site is where the patient is physically located. A patient’s home may be a patient site for telehealth services.

**Distant Site**

A distant site provider is the health professional licensed, certified or otherwise entitled to practice in Texas who uses telehealth services to provide health-care services to a patient in Texas.

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).

The distant site provider must obtain informed consent to treatment from the patient, patient’s parent or the patient’s legal guardian prior to rendering a telehealth service.

Distant site providers should meet all other telehealth service requirements specified in Texas Occupations Code Chapter 111.

**Telehealth Service Delivery Modalities**

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

- Synchronous audiovisual interaction between the distant site provider and the patient in another location
- 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 one of the following:
  - Clinically relevant photographic or video images, including diagnostic images
  - The patient’s relevant medical records, such as medical history, laboratory and pathology results, and prescriptive histories
  - Other forms of audiovisual telecommunication technologies that allow the distant site provider to meet the in-person visit standard of care

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

- An audio-only telephone consultation
- A text-only email message
- A facsimile transmission
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.

**Patient Health Information Security**

A parent or legal guardian must provide written or verbal consent to the distant site provider who may be physically located in the patient site or distant site environment during a telehealth service with a child.

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 telehealth service.

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 HIPAA confidentiality and data encryption requirements, as well as with HHS rules implementing HIPAA.

**Telehealth Service Documentation Requirements**

Medical records must be maintained for all telehealth services.

Documentation for a telehealth service must be the same as 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 release 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
- The distant site provider’s evaluation, analysis, or diagnosis of the patient

Providers of mental health services are not required to provide a patient’s primary care provider with a treatment summary.

For more information, call the TMHP Contact Center at 1-800-925-9126.