Chapter 49 Telehealth Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-105.2(b), Annotated Code of Maryland; Ch. 280, Acts of 2013; Ch. 366, Acts of 2016; Ch. 367, Acts of 2016

.01 Scope.

A. This chapter applies to telehealth programs reimbursed by the Maryland Medicaid Program.

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

   (1) Access to somatic and behavioral health services, thus reducing preventable hospitalizations and reducing barriers to health care access;

   (2) Access to outpatient and inpatient subspecialty services, 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 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) “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.

   (3) “Department” means the Maryland Department of Health, which is the single State agency designated to administer the telehealth program.

   (4) “Distant site” means a site registered with 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.

   (5) "Distant site provider" means the licensed provider at the distant site who provides medically necessary services to the patient at the originating site via telehealth upon request from the originating site provider.
“Federally qualified health center (FQHC)” has the meaning stated in Health-General Article, §24-1301, Annotated Code of Maryland.

“GT modifier” means the Healthcare Common Procedure Coding System (HCPCS) service code modifier indicating that the provider rendered a healthcare service via an interactive audio and video telecommunications system.

“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 participant, family, or provider.

“Opioid treatment program” means a program licensed by the Department in accordance with COMAR 10.09.80.

“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 registered with the Department to provide telehealth services.

“Participant” means an individual who is certified as eligible for, and is receiving, Medical Assistance benefits.

“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(12)(a) of this regulation;

(c) An individual or any other person with an ownership interest in a person identified in §B(12)(a) of this regulation.

“Psychiatric nurse practitioner” means an advanced practice registered nurse whose certification and licensing indicates CRNP-PMH.

“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.

“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.

(a) “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.

(b) “Store and forward technology” does not mean dermatology, ophthalmology, or radiology services according to COMAR 10.09.02.07.

(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 somatic or behavioral health 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 somatic or behavioral health services are authorized to be delivered via technology-assisted communication between originating and distant site providers.

(20) “Transmission fee” means the amount the Department reimburses a registered originating site for the telehealth transmission.

.03 Registration.

An eligible originating and distant site provider shall register with the Maryland Department of Health before providing telehealth services.

.04 Service Model.

A. Telehealth improves access to distant site providers.

B. Telehealth providers may be part of a private practice, hospital, or other health care system.

C. Medical Assistance-registered originating site providers shall engage in agreements with registered distant site providers for telehealth services.

D. 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 a registered distant site provider that shall be:
(1) Distinct from services provided by the originating site provider;

(2) Able to be delivered using technology-assisted communication; and

(3) Clinically appropriate to be delivered via telehealth;

B. Services provided via telehealth to the same extent and standard of care as services provided in person;

C. The transmission fee paid to a registered originating site, except when the originating site is not a Medicaid payable provider; and

D. As determined by the provider’s licensure or credentialing board, services performed via telehealth within the scope of a provider’s practice.

.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; and

C. Is present at the originating site at the time the telehealth service is rendered.

.07 Provider Conditions for Participation.

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

(1) Except when the originating site is not a Medicaid payable provider, be enrolled as a Medical Assistance Program provider on the date of the service is rendered;

(2) Except when the originating site is not a Medicaid payable provider, meet the requirements for participation in the 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) Register for participation in the Program;

(4) Engage in telehealth with a permitted telehealth provider registered with the Department, except when the originating site is not a Medicaid payable provider; and

(5) If a behavioral health service provider, be registered as a provider through the ASO on the date the service is rendered.

B. Medical Record Documentation. An originating and distant site provider shall:
(1) Maintain documentation in the same manner as during an in-person visit, using either electronic or paper medical records;

(2) Retain telehealth records according to the provisions of Health-General Article, §4-403, Annotated Code of Maryland; and

(3) Include the participant's consent to participate in telehealth or an explanation as to why consent was not available.

C. Permitted Originating Sites. The following sites may register 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) A deaf or hard of hearing participant's home or any other secure location as approved by the participant and the provider;

(4) An elementary, middle, high, or technical school with a supported nursing, counseling or medical office;

(5) A local health department;

(6) A FQHC;

(7) A hospital, including the emergency department;

(8) A nursing facility;

(9) The office of a physician, physician assistant, psychiatric nurse practitioner, nurse practitioner, or nurse midwife;

(10) An opioid treatment program;

(11) An outpatient mental health center;

(12) A renal dialysis center; or

(13) A residential crisis services site.

D. Permitted Distant Site Providers.

(1) Effective October 1, 2017, the following provider sites may register as distant site providers eligible to deliver services via telehealth within the rendering provider’s scope of practice:

(a) A community-based substance use disorder provider;

(b) An opioid treatment program;

(c) An outpatient mental health center; or

(d) A psychiatric hospital.
(d) A federally qualified health center.

(2) The following rendering provider types licensed to practice in Maryland may register as distant site providers to render behavioral or somatic services via telehealth:

(a) A nurse midwife;

(b) A nurse practitioner;

(c) A psychiatric nurse practitioner;

(d) A physician;

(e) A physician assistant; or

(f) A provider fluent in American Sign Language providing telehealth services to a deaf or hard of hearing participant.

.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 service;

(2) Unless engaging in a telehealth communication with a participant who is deaf or hard of hearing, 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 telehealth 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

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. Shall occupy a space or area that meets the minimum standards for privacy expected for a patient-provider interaction;

D. 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

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

.10 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 in person.

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. The Maryland Medical Assistance Program covers services such as dermatology, ophthalmology, and radiology according to COMAR 10.09.02.07.

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 a provider for the following:

(1) Services that occur during an ambulance transport;

(2) Communications between providers where the participant is not physically present at the originating site;

(3) Telehealth services delivered where either:

(a) The distant site is not a registered distant site provider as set forth in Regulation .07 of this chapter; or

(b) The originating site is not a permitted originating site provider as set forth in Regulation .07 of this chapter; or

(4) Mental health and substance use disorder services that did not receive prior authorization from the Department or its ASO.
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.

.11 Reimbursement.

A. To receive reimbursement for telehealth services, a provider shall:

(1) Be actively enrolled with Maryland Medical Assistance; and

(2) Participate with a telehealth partner that meets provider conditions for participation as set forth in Regulation .07 of this chapter.

B. Originating Site Transmission Fee.

(1) The telehealth transmission fee is set:

   (a) In COMAR 10.09.02.07D; or

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

(2) 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.

C. Distant Site Reimbursement.

(1) The distant site shall be reimbursed:

   (a) For somatic services provided via telehealth, as set forth in COMAR 10.09.02.07D;

   (b) For mental health services provided via telehealth, as set forth in COMAR 10.09.59.09; or

   (c) For substance use disorder services provided via telehealth, as set forth in COMAR 10.09.80.08.

(2) Services delivered via telehealth shall be billed with the telehealth GT modifier.

(3) Services delivered via telehealth shall be within the provider’s scope of practice as determined by its governing licensure or credentialing board.
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