**PROPOSAL**

**Maryland Register**

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**Title 10   
MARYLAND DEPARTMENT OF HEALTH**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.49 Telehealth Services**

Authority: Health-General Article, §15-105.2(b), Annotated Code of Maryland

**Notice of Proposed Action**

[19-105-P]

The Secretary of Health proposes to amend Regulation **.02**, repeal existing Regulation **.03**, amend and recodify existing Regulations **.04**, **.05**, **.07**, **.10**, and .**11** to be Regulations **.03**, **.04**, **.06**, **.09**, and **.10**, respectively, and recodify existing Regulations **.06**, **.08**, and **.09** to be Regulations **.05**, **.07**, and **.08**, respectively, under **COMAR 10.09.49 Telehealth Services**.

**Statement of Purpose**

The purpose of this action is to allow any and all provider types to receive reimbursement for services rendered via telehealth if the provider’s professional licensing board includes telehealth in its scope of practice. Additionally, this proposal aligns the delivery of telehealth services to that of services delivered in-person by removing the telehealth transmission fee that functions as an enhanced reimbursement for services delivered.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**The economic impact of the proposed amendment is indeterminable. The Department will save money by removing the originating site transmission fee. However, the proposed changes also expand the types of providers who may render services via telehealth. While this expansion improves access to preventive care and will likely result in reduced hospitalization and demand for emergency department services over time, increased utilization of care resulting from the expansion of the types of providers who may render services via telehealth may offset cost savings incurred through removal of the transmission fee. Furthermore, the Department is unable to estimate potential increases in utilization of care that may result from expanding the types of providers who may render services via telehealth.

|  |  |  |
| --- | --- | --- |
|  | Revenue (R+/R-) |  |
| **II. Types of Economic Impact.** | Expenditure (E+/E-) | Magnitude |
|  |  | |
|  |  |  |
| A. On issuing agency: | (E-) | Indeterminable |
| B. On other State agencies: | NONE |  |
| C. On local governments: | NONE |  |
|  | | |
|  | Benefit (+) Cost (-) | Magnitude |
|  |  | |
|  |  |  |
| D. On regulated industries or trade groups: | NONE |  |
| E. On other industries or trade groups: | NONE |  |
| F. Direct and indirect effects on public: | NONE |  |
| **III. Assumptions.** (Identified by Impact Letter and Number from Section II.) | | |
| A. The economic impact of the proposed amendment is indeterminable because while the Department will save money by eliminating the originating site transmission fee, it is unable to estimate potential increases in utilization of care that may result from expanding the types of providers who may render services via telehealth. | | |

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through July 8, 2019. A public hearing has not been scheduled.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(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)—(9) (text unchanged)

(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 registered with the Department to provide telehealth services**]**.

(11)—(19) (text unchanged)

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

**[.04] *.03* Service Model.**

A.—B. (text unchanged)

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

**[**D.**]***C.* (text unchanged)

**[.05] *.04* 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)—(3) (text unchanged)

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

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

**[**D.**]***C.* (text unchanged)

**[.07] *.06* 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)**]** *(1)—***[**(c)**]** *(3)* (text unchanged)

**[**(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. (text unchanged)

C. **[**Permitted**]** Originating Sites *include***[**. The following sites may register as an originating site for Telehealth Program service delivery**]**:

(1)—(13) (text unchanged)

D. **[**Permitted**]**Distant Site Providers *may render services via telehealth within the provider’s scope of practice.*

**[**(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 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.**]**

**[.10] *.09* Limitations.**

A.—D. (text unchanged)

E. The Department may not reimburse a provider for the following:

(1)—(2) (text unchanged)

(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**]** *the* originating site is not a permitted originating site provider as set forth in Regulation**[**.07**]***.06*of this chapter; or

(4) (text unchanged)

F.—G. (text unchanged)

**[**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.**]***H.* (text unchanged)

**[.11] *.10* 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**]***.06* of this chapter**[**.**]***; and*

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

**[**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.**]***B.* (text unchanged)

ROBERT R. NEALL  
Secretary of Health