

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 09 MEDICAL CARE PROGRAMS

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 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.

(6) “Federally qualified health center (FQHC)” has the meaning stated in Health-General Article, §24-1301, Annotated Code of Maryland.

(7) "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.

(8) “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.

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

(10) “Originating site” means the location of an eligible Medicaid participant at the time the service being furnished via technology-assisted communication occurs.

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

(12) “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.

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

(14) “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.

(15) “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.

.03 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. Services rendered via telehealth are reimbursed on a fee-for-service basis.

.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 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; and

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

.05 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.

.06 Provider Conditions for Participation.

A. To participate in the Program, the provider shall meet the requirements for participation in the Medical Assistance Program as set forth in:

- (1) COMAR 10.09.36.02;
- (2) COMAR 10.09.36.03; and
- (3) The COMAR chapter defining the covered service being 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. Originating Sites include:

- (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. Distant Site Providers may render services via telehealth within the provider's scope of practice.

.07 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.

.08 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

(2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended;

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.

.09 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 the originating site is not a permitted originating site provider as set forth in Regulation .06 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 home health monitoring services.

.10 Reimbursement.

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

- (1) Be actively enrolled with Maryland Medical Assistance;
- (2) Participate with a telehealth partner that meets provider conditions for participation as set forth in Regulation .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. 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.

Administrative History

Effective date: September 30, 2013 (40:19 Md. R. 1546)

Regulation .01 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .01A amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .02B amended effective April 28, 2014 (41:8 Md. R. 471); December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300); April 11, 2016 (43:7 Md. R. 449)

Regulation .03 amended effective December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300)

Regulation .04 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .04D amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .05 amended effective December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300)

Regulation .05B, D amended effective April 11, 2016 (43:7 Md. R. 449)

Regulation .06 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .06B amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .07 amended effective December 22, 2014 (41:25 Md. R. 1479); October 26, 2015 (42:21 Md. R. 1300)

Regulation .07B amended effective April 11, 2016 (43:7 Md. R. 449)

Regulation .08 amended effective April 28, 2014 (41:8 Md. R. 471); October 26, 2015 (42:21 Md. R. 1300)

Regulation .09 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .10A, B amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .11 amended effective October 26, 2015 (42:21 Md. R. 1300)

Regulation .11I, J adopted effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .12A, B amended effective December 22, 2014 (41:25 Md. R. 1479)

Regulation .12 repealed and new Regulation .12 adopted effective October 26, 2015 (42:21 Md. R. 1300)

Chapter revised effective October 24, 2016 (43:21 Md. R. 1166)

Regulation .02B amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .04D amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .05 amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .06 amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .07C, D amended effective March 26, 2018 (45:6 Md. R. 319)

Regulation .07D amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .09 amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .10 amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .11 amended effective October 23, 2017 (44:21 Md. R. 983)

Regulation .11C, D amended effective February 27, 2017 (44:4 Md. R. 252)

Chapter revised effective October 7, 2019 (46:20 Md. R. 844)