Adirondack Health Institute

Lead Empower Innovate

COVID-19 Telehealth Updates

DOH: Effective on or after 3/13/2020 during the current State of Emergency only, NYS Medicaid will reimburse telephonic evaluation and management services to members in cases where face-to-face visits may not be recommended. These telephonic E & M services must be provided by a physician, NP, PA, or licensed midwife actively enrolled in FFS Medicaid or MMC plans.

If there are questions, they should be directed to 518-473-2160, or Telehealth.Policy@health.ny.gov.

- Relevant CPT codes are:
  i. "99441": Telephone evaluation and management service; 5-10 minutes of medical discussion Fee: $12.56
  ii. "99442": 11-20 minutes of medical discussion Fee: $23.48
  iii. "99443": 21-30 minutes of medical discussion Fee: $37.41

There are six different Medicaid billing pathways that providers and other practitioners can follow, outlined below:

Billing Lane	Telephonic Service	Applicable Providers	Fee or Rate	Historical Setting	Rate Code or Procedure	Notes:
Lane 1	Evaluation and Management Services	Physicians, NPs, PAs, Midwives, Dentists, RNs	Fee Schedule	Office	CPT Procedure Codes "99211", "99441", "99442", and "99443" "D9991" - Dentists	New or established patients. Append GQ modifier for 99211only
Lane 2	Assessment and Patient Management	All other practitioners billing fee schedule (e.g., Psychologist)	Fee Schedule	Office	Any existing Procedure Codes for services appropriate to be delivered by telephone. Append modifier GQ for tracking purposes.	Billable by Medicaid enrolled providers. New or established patients.
Lane 3	Offsite Evaluation and Management Services (non-FQHC)	Physicians, NPs, PAs, Midwives	Rate	Clinic or Other (e.g., amb surg, day program)	Rate Code "7961" for non-SBHC Rate Code "7962" for SBHC	New or established patients.
Lane 4	Offsite Evaluation and Management Services (FQHC)	Physicians, NPs, PAs, Midwives	Rate	Clinic	Rate Code **"4012" for non-SBHC** **Rate Code "4015" for SBHC**	New or established patients.
Lane 5	Assessment and Patient Management	Other practitioners (e.g., Social Workers, dieticians, **home care aides, RNs, therapists and other home care workers**)	Rate	Clinic or other **Includes FQHCs, Day Programs and Home Care Providers**	**Non-SBHC**: • Rate Code "7963" (for telephone 5 – 10 minutes) • Rate Code "7964" (for telephonic 11 – 20 minutes) • Rate Code "7965" (for telephonic 21 – 30 minutes) **SBHC**: • **Rate code "7966" (for telephone 5 – 10 minutes)** • **Rate code "7967" (for telephonic 11 – 20 minutes)** • **Rate code "7968" (for telephonic 21 – 30 minutes)**	Broadly billable by a wide range of provider types **including FQHCs, Day Programs and Home Care (e.g., aide supervision, aid orientation, medication adherence, patient check-ins). However, see LHCSA/CHHA assessments and RN visits which get billed under existing rates in Lane 6).** New or established patients. Report NPI of supervising physician as Attending.
Lane 6	Other Services (not eligible to bill one of the above categories)	All provider types (e.g., **Home Care**, ADHC programs, health home, **HCBS**, peers)	Rate	All other as appropriate	All appropriate rate codes as long as appropriate to delivery by telephone	Covers all Medicaid services not covered above. **Includes LHCSA and CHHA assessments, evaluations and RN visits.**

**Managed care plans may have separate detailed billing guidance but will cover all services appropriate to deliver through telehealth/telephonic means to properly care for the member during the State of Emergency. Further detail on FFS code coverage is provided below including links to specialized guidance for mental health, substance abuse and OPWDD services.*

The chart has two basic sections:

- Lanes 1-2 are for use by fee schedule billers (primarily practitioners in office-based settings) and lanes 3-6 are for all other billers that primarily bill rates for clinic and other services. Practitioners that usually bill the fee schedule directly should bill for telephonic services using lane 1 and 2 based on practitioner types noted.
- Clinics should bill using lanes 3, 4 and 5 depending on FQHC status and practitioner type.
- Lane 5 is for clinics and other programs to use for the noted practitioners and should be used for any and all patient assessment and management services that are appropriate to be billed telephonically unless otherwise noted. Lane 6 is reserved for all other services that do not fit into the first 5 lanes.
- More guidance will be issued on lane 6 adding to the noted services but it is expected that over 90 percent of all Medicaid telephonic billing should fall into lanes 1-5.

For more information on NYS Medicaid FFS billing during the PHE, please reference the below documents:

1) Comprehensive Guidance Regarding the Use of Telehealth Including Telephonic Services
2) NYS DOH FAQ on Medicaid Telehealth Guidance during the COVID-19 State of Emergency

Waiver of SHIN-NY Written Consent for Telehealth:
To help facilitate and support the approach of expanding telemedicine, NYS DOH is allowing informed, verbal, documented consent for telehealth visits in lieu of the current SHIN-NY written consent requirements per 10 NYCRR Part 300. More information can be found here.

OMH: Effective March 13, 2020, telemental health for Medicaid-reimbursable services is temporarily expanded to include:

- **Telephonic; and/or**
- Video, including technology commonly available on smart phones and other devices.
- Telemental health practitioner includes any professional, paraprofessional, or unlicensed behavioral health staff who deliver a qualified service via telemental health.
- *This Supplemental Guidance does not apply to Community Residences, Adult BH HCBS Short-Term Respite and Intensive Crisis Respite, nor to private practitioners operating outside of an OMH-licensed or designated service.*
- **A self-attestation form is required and needs to be completed and sent to amy.smith@omh.ny.gov.**
- **As of 3/19/2020, OMH expanded upon previously released guidance to waive the face-to-face requirement for state-aid funded programs for the duration of the declared disaster emergency.** In lieu of face-to-face contact, providers may utilize telephonic or telehealth capabilities as necessary.
- **More information can be found here.**

OASAS: The recently issued Telepractice Waiver is updated to clarify that, during the duration of the declared disaster emergency, **telephonic delivery** is an acceptable means of service delivery for Telepractice by OASAS programs. Providers should bill for telepractice services exactly the way they bill for a service provided by other means, with the only addition being the modifier for each type of service.

i. **A telepractice attestation form must be completed and submitted to legal@oasas.ny.gov and certification@oasas.ny.gov.**
ii. Services to be delivered are those allowable under current program regulations or State-issued guidance as clinically appropriate and include assessment, individual, group, medication management and collateral services.
iii. Telepractice is not limited to certified or authorized OASAS locations. The client and/or practitioner can be at any site that meets with privacy and confidentiality standards, including a home. The space utilized for a Telepractice session should assure the privacy and protection of patient confidentiality.
iv. Peer Services delivered by CRPAs are allowable services and may be delivered by providers who have submitted a telepractice attestation or are otherwise approved to deliver telepractice services.
v. Assessment, counseling, and other non-medical services may be provided using telepractice by unlicensed staff, CASAC-T's and individuals who possess a limited permit.
vi. More information can be found here.

Medicare: Under this new waiver, Medicare can pay for office, hospital, and other visits furnished via telehealth across the country and including in patient's places of residence starting March 6, 2020. These visits are considered the same as in-person visits and are paid at the same rate as regular, in-person visits. Rural and site limitations have been removed, but locations that are newly eligible will not receive a facility fee. **You do not need to apply for the waivers, nor are these waivers limited to patients with COVID-19, they cover all patients.** Medicare does not provide a definition of where a distant provider site is but does limit the type of provider who can provide a service; however, CMS has stated that providers cannot be located out of the country when providing the service via telehealth.

A great summary of Medicare changes from the waiver and CARES Act can be found on the Center for Connected Health Policy website, linked here.

Medicare Billing:

The Coronavirus Aid, Relief, and Economic Security Act was passed on 03.27.2020 – telehealth items contained with this Act are summarized below, as pulled from the American Telemedicine Association website.

Section	Summary
Section 3701. Health Savings Accounts for Telehealth Services	Allows a high-deductible health plan (HDHP) with a health savings account (HSA) to cover telehealth services prior to a patient reaching the deductible.

Section 3703. Expanding Medicare Telehealth Flexibilities	Removes the COVID-19 Medicare telehealth waiver requirement that a provider must have seen the patient within the last 3 years. Removes the definition of telehealth under the COVID-19 waiver as real-time audio/visual technology, providing the Secretary of HHS additional authority to give flexibility to providers to use audio-only telehealth. Provides the Secretary with expanded authority to waive *additional* 1834(m) statutory restrictions on Medicare telehealth services.
Section 3704. Allowing Federally Qualified Health Centers and Rural Health Clinics to Furnish Telehealth in Medicare	Allows Federally Qualified Health Centers and Rural Health Clinics to serve as a distant site for telehealth during the COVID-19 emergency period.
Section 3705. Expanding Medicare Telehealth for Home Dialysis Patients	Eliminate a requirement during the COVID-19 emergency period that a nephrologist conduct some of the required periodic evaluations of a patient on home dialysis face-to-face.
Section 3706. Allowing for the Use of Telehealth during the Hospice Care Recertification Process in Medicare	Allows qualified providers to use telehealth technologies in order to fulfill the hospice face-to-face recertification requirement during the COVID-19 emergency period.
Section 3707. Encouraging the Use of Telecommunications Systems for Home Health Services in Medicare	Requires the Health and Human Services (HHS) to issue clarifying guidance encouraging the use of telecommunications systems, including remote patient monitoring, to furnish home health services consistent with the beneficiary care plan during the COVID-19 emergency period.

Commercial Payers: Regional North Country payers have similar verbiage on their sites - they are all covering office visits/COVID-19 testing at allowed facilities. The State Department of Financial Services has also ordered insurers to waive copays for telemedicine.

i. Excellus: During the COVID-19 State of Emergency declared by Governor Cuomo, electronic information and communication technologies for telehealth include *"telephonic or video modalities (including technology commonly available on smart phones and other devices) when medically appropriate to deliver health care services."*
   a. Excellus will waive the cost-share for all telehealth visits (not just those related to COVID-19) for all members until the State of Emergency has been lifted.
   b. The patient must provide consent prior to rendering telehealth services. The consent can be written or verbal and must be documented in the patient's medical record. Their website contains an example of a telehealth patient consent form.

c. Physical therapists: Teletherapy must meet the criteria set forth in their corporate medical policy. You can bill a non-MD phone only or non-MD video visit if you have a secure HIPAA compliant portal.

ii. **CDPHP** and **MVP** Health Care are teaming up to offer their entire membership (including MVP's members throughout New York and in Vermont) access to virtual emergency medicine services that allows patients to connect with a physician 24/7 from the comfort of their home. Additionally, COVID-19 screening and testing is free for all MVP members.
https://www.cdphp.com/newsroom/2020/03/03-16-cdphp-mvp-partnership
   a. CDPHP is also encouraging members to take advantage of telephonic consultations.
   To that end, CDPHP will be covering telephonic consults (audio and video) with participating providers for physical and mental health services.

iii. Health Insurance Providers Respond to COVID-19: This lists out many large insurers and steps they are taking to help during the pandemic.

iv. On March 11 ,2020, the IRS issued guidance on HDHP and expenses related to COVID-19, advising that high-deductible health plans (HDHPs) can pay for 2019 Novel Coronavirus (COVID-19)-related testing and treatment, without jeopardizing their status. This also means that an individual with an HDHP that covers these costs may continue to contribute to a health savings account (HSA).

v. **Fidelis:** Effective March 14, 2020, Fidelis Care is in the process of updating systems to ensure our members can use telehealth services from participating providers with cost sharing waived (in products that have member cost sharing). Providers are responsible to ensure any copays, coinsurance, or deductible charges are waived for Fidelis Care members at the time of telehealth services, and claims will be adjusted to reflect provider payments with $0 member liability upon processing.
   a. More information on the current telehealth policy can be found in the Provider Manual **here**, Section 26.

Provider Licensing: Medicare and Medicaid Licensing Requirements: Under section 1135 of the SSA, the Secretary may waive Medicare, Medicaid, or CHIP requirements that physicians and other health care professionals hold licenses in the State in which they provide services. On March 13, 2020, CMS issued several blanket section 1135 waivers including a waiver on licensure:

Provider Locations: *Temporarily waive requirements that out-of-state providers be licensed in the state where they are providing services when they are licensed in another state. This applies to Medicare and Medicaid.*

The Federation of State Medical Boards released a statement offering the assistance of the FSMB to help provide essential information that can be used to verify licenses and credentials for physicians and other health care professionals wishing to practice across state lines to treat patients in areas heavily impacted by the COVID-19 virus.

Please check out the Public Health Emergency website for more information on this linked here. NYS also released an executive order #202. In NYS, NYSED has stated that to the extent necessary, physicians licensed and in current good standing in any state in the US can practice medicine in NYS without civil or criminal penalty related to lack of licensure. They have also stated that to the extent necessary, physicians licensed and in current good standing in NYS but NOT registered in NYS can practice here without civil or criminal penalty related to lack of registration.

DEA: The declaration of the national emergency enacted one of the exceptions to the Ryan Haight Act for telehealth (telemedicine as it is referred to in the Act). For as long as the Secretary's designation of a public health emergency remains in effect, DEA-registered practitioners may issue prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
- The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system.
- More information can be found here.

HIPAA: A change was made regarding the Health Insurance Portability and Accountability Act (HIPAA) "Effective immediately, the HHS Office for Civil Rights (OCR) will exercise enforcement discretion and waive penalties for HIPAA violations against health care providers that serve patients in good faith through everyday communications technologies, such as FaceTime or Skype, during the COVID-19 nationwide public health emergency."

a. More information can be found here.
b. OCR Guidance

Telehealth Software Resources:

i. Please refer to the separately attached Telehealth Equipment/Software Resource Guide