



Department
of Health

NYS Telehealth Parity Law

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New York State Telehealth Parity Law

- Requires commercial insurers and Medicaid to provide reimbursement for services delivered via telehealth if those services would have been covered if delivered in person
 - Public Health Law (PHL) Article 29-G, Social Services Law § 367-u, and Insurance Law § 3217-h and 4306-g



NYS Telehealth Definitions

Insurance Law

- The use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

Public Health Law

- The use of electronic information and communication technologies to deliver health care to patients at a distance, which shall include the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient.

NYS Dept. of Financial Services:

Emergency Regulation Regarding Health Insurance Coverage for Telehealth Services

- March 16, 2020 regulation effective for the duration of the state of emergency:
https://www.dfs.ny.gov/system/files/documents/2020/03/re62_58_amend_text.pdf
 - Prohibits insurers from imposing cost-sharing on telehealth during the state of emergency
 - Includes audio-only/telephonic and video modalities as appropriate
 - Information for Insurers and Providers:
https://www.dfs.ny.gov/industry_guidance/coronavirus/telehealth_ins_prov_info

NYS Public Health Law Requirements: Medicaid Reimbursement

Telehealth Providers Eligible for NYS Medicaid Reimbursement:

- Physicians
- Physician Assistants
- Dentists
- Nurse Practitioners
- Registered Nurses, when receiving data by means of RPM
- Podiatrists
- Optometrists
- Psychologists
- Social Workers
- Speech Language Pathologists
- Audiologists

Telehealth Providers Eligible for NYS Medicaid Reimbursement (continued):

- Midwives
- Physical Therapists
- Occupational Therapists
- Certified Diabetes Educators
- Certified Asthma Educators
- Genetic Counselors
- Hospitals licensed under Article 28 of PHL including RHCs serving special populations
- Home Care Services Agencies licensed under Article 36 of PHL
- Hospices licensed under Article 40 of PHL

Telehealth Providers Eligible for NYS Medicaid Reimbursement (continued):

- Credentialed Alcoholism and Substance Abuse Counselors
- Authorized Early Intervention Program Providers and Service Coordinators
- Clinics licensed or certified under Article 16 of MHL and certified and non-certified day and residential programs funded or operated by OPWDD
- Care Managers employed or under contract to:
 - Health Home Programs
 - Patient Centered Medical Homes
 - OPWDD Care Coordination Organizations
 - Hospices
 - Voluntary Foster Care Agencies certified by OCFS

Highlight indicates addition as part of the 2020-21 enacted budget

Telehealth Practitioners must:



- Be licensed and currently registered in accordance with NYS Education Law and enrolled in NYS Medicaid.
- Act within their scope of practice.
- Be credentialed and privileged at both the originating and distant sites when telehealth sites are provided by an Article 28 facility.

Originating Sites Eligible for NYS Medicaid Reimbursement

- Facilities licensed under Article 28: Hospitals, Nursing Homes and Diagnostic and Treatment Centers
- Facilities licensed under Article 40: Hospice Programs
- Facilities defined in subdivision six of section 1.03 of MHL: Clinics certified under Articles 16, 31 and 32
- Certified and non-certified day and residential programs funded or operated by OPWDD
- Private physician or dentist offices located within NYS
- Adult care facilities licensed under SSL Title 2 of Article 7
- Public, private and charter elementary and secondary schools, school age child care programs, and child day care centers within NYS
- Patient's place of residence in NYS or other temporary location in or out of NYS



NYS Medicaid Telehealth Modalities

- Telehealth is limited to:
 - ❖ Telemedicine
 - ❖ Store-and-forward technology
 - ❖ Remote patient monitoring (RPM)
 - ❖ **Audio-only telephone communication only to the extent defined in DOH regulations**
- **Telehealth excludes fax-only, and electronic messaging-only transmissions, though these are not precluded if used in addition to telemedicine, store-and-forward and RPM.**



Highlight indicates addition as part of the 2020-21 enacted budget

NYS Medicaid Telemedicine Definition

- The use of synchronous two-way electronic audio visual communications to deliver clinical health care services which shall include the assessment, diagnosis, and treatment of a patient, while such patient is at the originating site and a telehealth provider is at a distant site.
- **Distant site** – location of the telehealth provider
- **Originating site** – location of the patient



Store-and-Forward Definition

- The asynchronous, electronic transmission of a patient's health information in the form of patient-specific digital images and/or pre-recorded videos from a provider at an originating site to a telehealth provider at a distant site.



Remote Patient Monitoring Definition

- The use of synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at an originating site that is transmitted to a telehealth provider at a distant site for use in treatment and management of medical conditions that require frequent monitoring.



Audio-Only Telephone Communications

- PHL Section 2999-ee authorizes DOH Commissioner to specify in regulation additional telehealth modalities, including audio-only or video-only telephone communications.
- PHL Section 2999-dd states that reimbursement for additional modalities, provider categories and originating sites specified in accordance with PHL 2999-ee and audio-only telephone communications defined in regulations are contingent upon federal financial participation.



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Summary of Medicaid Telehealth Guidance During the COVID-19 State of Emergency

- Provides broad expansion for the ability of all Medicaid providers in all situations to use a wide variety of communication methods, to the extent appropriate for the member.
- Effective for dates of service starting 3/1/20 for the duration of the state of emergency or issuance of subsequent guidance by NYSDOH.
- Medicaid will reimburse telephonic assessment, monitoring, and evaluation management services under specialized rules through six payment pathways (link to Medicaid Update in next slide).

Medicaid Telehealth Guidance During the COVID-19 State of Emergency

- **May 2020 Special Edition Medicaid Update:**
https://www.health.ny.gov/health_care/medicaid/program/update/2020/no05_2020-03_covid-19_telehealth.htm
- **FAQs on Medicaid Telehealth Guidance:**
https://www.health.ny.gov/health_care/medicaid/covid19/faqs.htm
- **Webinar, 5/5/2020:**
<https://www.youtube.com/watch?v=qhvFYdgi0qo&feature=youtu.be>

Medicaid Telehealth Guidance During the COVID-19 State of Emergency

- **Originating sites** can be anywhere the member is located *including the member's home*.
 - There are no limits on originating sites during the State of Emergency.
- **Distant sites** can be any site within the 50 United States or United States' territories, including Federally Qualified Health Centers and providers' homes, for all patients including patients dually eligible for Medicaid and Medicare.
 - All Medicaid provider types are eligible to provide telehealth but services should be appropriate for telehealth and should be within the provider's scope of practice.

Interagency Telehealth Guidance

Guidance

- Inter-agency guidance in development
 - DOH, OMH, OASAS, OPWDD
- Full NYS license/certification and current registration are required for telehealth practitioners.
- All laws, rules, regulations, standards and competencies apply:
 - SED professional scope of practice
 - Privacy and confidentiality
 - Patient consent and record-keeping

Differences Between State Licensed Providers

	Article 28	Article 31	Article 32
Recognized Modalities	<ol style="list-style-type: none"> 1. Telemedicine 2. Store-and-forward technology 3. Remote Patient Monitoring 	<ol style="list-style-type: none"> 1. Telemental Health (live, audio-visual conference) 	<ol style="list-style-type: none"> 1. Telepractice (live, audio-visual conference)
Regulations	No	Yes	Yes

PHL Section 2999-ee authorizes the Commissioner of DOH to specify additional modalities, including audio-only or video-only telephone communications

Differences Between State Licensed Providers

	Article 28	Article 31	Article 32
Approval Needed	No	Yes	Yes
Distant Site Providers	For Medicaid Reimbursement: Listed in PHL Article 29-G	Psychiatrists, Psychiatric NPs, psychologists, social works, MH counselors, marriage and family therapists, creative arts therapists and psychoanalysts	DATA 2000 waived medical practitioners and OASAS-credentialed clinical staff
Patient Location	Includes home and other temporary location	Includes home and other temporary location	OASAS approved location

NYSDOH Contact Information

- General questions: telehealth@health.ny.gov
- Medicaid Fee-for-Service (FFS) telehealth/telephonic coverage and policy questions may be directed to the Office of Health Insurance Programs (OHIP) Division of Program Development and Management at (518) 473-2160 or Telehealth.Policy@health.ny.gov.
- Medicaid FFS coverage and policy questions may be directed to the Office of Health Insurance Programs (OHIP) Division of Program Development and Management at (518) 473-2160 or FFSMedicaidPolicy@health.ny.gov.
- Questions regarding MMC reimbursement and/or documentation requirements should be directed to the enrollee's MMC plan.
- Questions regarding FFS claiming should be directed to the eMedNY Call Center at (800) 343-9000.