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SUBJECT Updates to Guidelines for the Delivery of Physical Health Services via Telemedicine	BY  Sally A. Kozak, Deputy Secretary Office of Medical Assistance Programs	

IMPORTANT REMINDER: All providers must revalidate the Medical Assistance (MA) enrollment of each service location every 5 years. Providers should log into PROMISe to check the revalidation dates of each service location and submit revalidation applications at least 60 days prior to the revalidation dates. Enrollment (revalidation) applications may be found at: <https://www.dhs.pa.gov/providers/Providers/Pages/PROMISe-Enrollment.aspx>.

PURPOSE:

The purpose of this bulletin is to clarify the guidelines for the delivery of services provided via telemedicine.

SCOPE:

This bulletin applies to all providers enrolled in the Medical Assistance (MA) Program who render physical health services in the MA Fee-for-Service (FFS) delivery system. Providers rendering services under the managed care delivery system should address any coverage or payment questions for the delivery of services via telemedicine to the appropriate managed care organization.

BACKGROUND:

On November 30, 2007, the Department of Human Services (Department) issued MA Bulletin 09-07-15, et al, "Medical Assistance Program Fee Schedule: Addition of Telehealth Technology Code and Informational Modifier for Consultations Performed Using Telecommunication Technology", to announce that MA payment would be made for consultations rendered to MA beneficiaries using telecommunication technology, including video conferencing and telephone, by enrolled maternal fetal medicine specialists, related to high risk obstetrical care, and psychiatrists, related to psychopharmacology.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate toll free number for your provider type.

Visit the Office of Medical Assistance Programs website at:

<https://www.dhs.pa.gov/providers/Providers/Pages/Health%20Care%20for%20Providers/Contact-Information-for-Providers.aspx>.

On May 23, 2012, the Department issued MA Bulletin 09-12-31 et al, "Consultations Performed Using Telemedicine", to expand the scope of physician specialists who could render consultations to MA beneficiaries using interactive telecommunication technology to include all physician specialists and remove the requirement of the referring provider to participate in the visit.

In response to the changes in technology and requests from providers and beneficiaries, the Department issued MA Bulletin 99-21-06, "Guidelines for the Delivery of Physical Health Services via Telemedicine", to expand the scope of services for which telemedicine may be used, to expand the scope of providers who may render MA covered services to beneficiaries using interactive telecommunication technology, and to establish ongoing guidelines for services rendered via telemedicine, effective September 30, 2021.

The Department is clarifying the guidelines with respect to consideration of a provider's scope of practice, licensure or certification, as there is no Pennsylvania statute that authorizes or prohibits the use of telemedicine. This bulletin is otherwise restating the policies set forth in MA Bulletin 99-21-06.

DISCUSSION:

As explained in MA Bulletin 99-21-06, the Centers for Medicare & Medicaid Services (CMS), for the purposes of Medicaid, defines telemedicine as the use of two-way, real time interactive telecommunications technology that includes, at a minimum, audio and video equipment as a mode of delivering healthcare services¹.

Telemedicine, for purposes of Medicaid payment, does not include telephone, asynchronous or store and forward technology or facsimile machines, electronic mail systems or remote patient monitoring devices. However, these technologies may be utilized as a part of the provision of a MA-covered service.

Consistent with CMS's policy regarding telemedicine, prior to the COVID-19 public health emergency (PHE), the Department required two-way, real-time interactive audio and video telecommunications between beneficiary and provider. However, during the COVID-19 PHE, CMS permitted the use of audio-only technology to deliver Medicaid covered services. Additionally, the Department of Health and Human Services Office of Civil Rights (OCR) announced it will exercise enforcement discretion related to the Health Insurance Portability and Accountability Act (HIPAA).

In response to CMS's policy changes during the COVID-19 PHE, the MA Program has allowed for audio-only services in situations where the beneficiary does not possess or have access to video technology and when clinically appropriate. The Department will continue to allow providers to utilize audio-only telecommunication when the beneficiary does not have access to video capability or for an urgent medical situation, provided that the use of audio-only telecommunication technology is consistent with state and federal requirements, including

¹ <https://www.medicaid.gov/medicaid/benefits/telemedicine/index.html>

guidance by CMS with respect to Medicaid payment and OCR with respect to compliance with HIPAA.

Services rendered via telemedicine, including those delivered using audio-only telecommunication technology, must use technology that is two-way, real-time, and interactive between beneficiary and provider.

MA services in the FFS delivery system rendered via telemedicine will be paid the same rate as if the services were rendered in person.

MA managed care organizations (MCO) may, but are not required to, allow for the use of telemedicine. MA MCOs may negotiate payment for services rendered via telemedicine.

PROCEDURE:

The MA Program will continue to pay for MA covered services rendered to beneficiaries via telemedicine when clinically appropriate. Services rendered via telemedicine must be provided according to the same standard of care as if delivered in-person. MA coverage and payment for services provided via telemedicine is separate and apart from authorization to engage in telemedicine from a professional licensing standpoint. Providers using telemedicine must remain informed on federal and state statutes, regulations, and guidance regarding telemedicine.

Consent

Providers are to obtain consent prior to rendering a service via telemedicine from the beneficiary receiving services or their legal guardian. Providers must also allow beneficiaries to elect to return to in-person services at any time. Services rendered via telemedicine may not be recorded without the beneficiary's consent. Beneficiaries may elect not to receive services via telemedicine at any time. Providers cannot use a beneficiary's refusal to receive services via telemedicine as a basis to limit the beneficiary's access to services.

Documentation

Providers should fully document the services rendered and the telecommunication technology used to render the service in the MA beneficiary's medical record. If the service was rendered using audio-only technology, providers are to document that the services were rendered using audio-only technology and the reason audio/video technology could not be used.

Limited English Proficiency

All recipients of federal funding, including the MA Program, must offer and make available interpretation services to beneficiaries with limited English proficiency, visual limitations, and/or auditory limitations. Providers who elect to render services through telemedicine must have policies in place to make language assistance services, such as oral

interpretation, including sign language interpretation, and written translation, available to beneficiaries being served via telemedicine.

Originating Sites

The originating site is where the beneficiary is located at the time the MA covered service is rendered to them via telemedicine. The originating site can be, but is not limited to the beneficiary's home, a provider's office, clinic, nursing facility, or other medical facility site. When the originating site is a provider's office, clinic, nursing facility or other medical facility, staff at the originating site should be trained to assist beneficiaries with the use of the telemedicine equipment and available to provide in-person clinical intervention, if needed. The provider may bill the telehealth originating site facility fee (procedure code Q3014) for the use of their office if no other MA covered service is provided at the originating site.

Providers should obtain the location of the beneficiary at the time each service is rendered via telemedicine should there be a need for emergency medical services.

Technology Guidelines

Technology used for telemedicine, whether fixed or mobile, should be capable of presenting sound and image in real-time and without delay. The telemedicine equipment should clearly display the rendering practitioner's and participant's face to facilitate clinical interactions and must meet all state and federal requirements for the transmission and security of health information, including HIPAA.

Audio-only telecommunications technology may be used when the beneficiary does not have video capability or for an urgent medical situation, if consistent with state and federal law.

Providers must assure the privacy of the beneficiary receiving services and comply with HIPAA and all other federal and state laws governing confidentiality, privacy, and consent. Public facing video communication applications should not be used to render services via telemedicine.

Telemedicine does not include asynchronous or "store and forward" technology such as facsimile machines, electronic mail systems, or remote patient monitoring devices. While asynchronous applications are not considered telemedicine, they may be utilized as part of a MA covered service, such as a laboratory service, x-ray service or physician service. Telemedicine also does not include text messages, although text messages and telephone may continue to be utilized for non-service activities, such as scheduling appointments.

Billing and Payment

MA covered services rendered via telemedicine in the FFS delivery system will be paid at the same rate as if they were rendered in-person. Providers are to use Place of Service (POS) 02 (telemedicine) to identify services that are rendered via telemedicine. Providers are

to indicate in the beneficiary's medical record when telemedicine services are rendered via audio-only.

When the beneficiary accesses services at an enrolled originating site, the provider serving as the originating site may bill for the technology service using the telehealth originating site procedure code Q3014 only. MA Providers may not bill procedure code Q3014 in addition to an office visit that is provided at the originating site. The MA fee for Q3014 is \$15.72. Providers may access the online version of the MA Program Fee Schedule at the Department's website at:

<https://www.dhs.pa.gov/providers/Providers/Pages/Health%20Care%20for%20Providers/MA-Fee-Schedule.aspx>.

Out-of-State Practitioners Rendering Services to Individuals in Pennsylvania

Out-of-state licensed practitioners who render services via telemedicine to individuals in Pennsylvania through the MA Program must meet the licensing requirements established by the Pennsylvania Department of State. In order to receive payment for services to beneficiaries in the FFS delivery system, practitioners must be enrolled in the MA Program.

OBSOLETE BULLETIN:

This bulletin obsoletes MA Bulletin 99-21-06 "*Guidelines for the Delivery of Physical Health Services via Telemedicine*", issued September 30, 2021.

RESOURCES:

Information regarding CMS' telemedicine policy is available at CMS' COVID-19 Policy Toolkit: <https://www.medicaid.gov/medicaid/benefits/telemedicine/index.html>.

Information regarding OCR's notice announcing enforcement discretion related to HIPAA is available at: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>.

The Office of Mental Health and Substance Abuse Services Bulletin, *Guidelines for the Delivery of Behavioral Health Services Through Telehealth*, is available at: https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OMHSAS/OMHSAS-21-09_Guidelines-Delivery-of-BH-Services-Thru-Telehealth_9-30-2021.pdf.