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New York State Medicaid Post-PHE Telehealth Policy

OVERVIEW

On March 14th, the New York State (NYS) Department of Health (DOH) released a special edition of the Medicaid Update that provides guidance on NYS Medicaid telehealth policy (including audio-only) following the expiration of the federal Covid-19 Public Health Emergency (PHE) on May 11th.

The guidance includes:

- An expanded list of reimbursable telehealth modalities, including requirements for the provision of audio-only telehealth services;
- New consent requirements; and
- Updated billing procedures.

The Medicaid Update is available here. A summary of the update is provided below.

TELEHEALTH MODALITIES

Prior to the Covid-19 emergency, NYS Medicaid only covered audio-visual telehealth, remote patient monitoring (RPM), and store-and-forward technologies. NYS Medicaid will now additionally cover the following modalities:

- Audio-only telehealth;
- Virtual check-ins;
- Virtual patient education; and
- Virtual emergency care.

eConsults, or interprofessional consultations between a treatment/requesting provider and a consulting provider, are intended to improve access to specialty expertise. eConsults are not currently a covered services under NYS Medicaid; however, the State intends to request approval of eConsult coverage from the Centers for Medicare and Medicaid Services (CMS) and will release guidance outlining coverage policies once approved.

Audio-Only Visits

Audio-only visits will be covered only when all the following conditions are met:

- Audio-visual telehealth is not available to the patient due to lack of equipment or connectivity or audio-only is the preference of the patient;
- The provider must make either audio-visual or in-person appointments available at the request of the patient;
- The service can be effectively delivered without a visual or in-person component (this is a clinical decision made by the provider); and
- The service provided via audio-only telehealth contains all elements of the billable procedures or rate codes and meets all documentation requirements as if provided in-person or via an audio-visual visit.

Providers must document in the member's chart the reason why audio-only services were used for each audio-only encounter. DOH anticipates only rare occasions when audio-only visits are appropriate for non-behavioral health services. DOH will monitor audio-only billing and take steps to limit overuse and prevent misuse of audio-only services.

Virtual Check-In

Virtual check-ins are defined as brief medical interactions between a physician or other qualified health care professional and a patient. A virtual check-in must be initiated by the patient (or parent/caregiver) and may be conducted by telephone or through electronic interactions via patient portal, secure email, or secure text messaging. Visits may not relate to an Evaluation and Management (E&M) visit the patient had within the past seven days, and may not lead to a related E&M visit within 24 hours.

Virtual Patient Education

Virtual patient education is defined as education and training for patient self-management by a qualified health care professional via telehealth. Education is delivered to patients, their families, or caregivers and is reimbursable only for services that are otherwise reimbursable when delivered in-person and when the provider meets certain billing requirements.

Virtual eTriage

Ambulance service providers participating in the national Emergency Triage, Treat, and Transport (ET3) model responding to 911 calls may facilitate telehealth encounters where appropriate when providing "treatment in place." The visit should be reported by both the ambulance services (as an ET3 claim) and the telehealth provider (as a telehealth claim). This option will only be available while the federal ET3 program is active.

Additional billing information for this modality is available here.

TELEHEALTH PROVIDERS

Telehealth providers include all NYS Medicaid providers and provider agencies that are authorized to provide in-person services. The guidance additionally highlights the following as allowable telehealth provider types:

- Voluntary foster care agencies certified by the NYS Office of Children and Family Services (OCFS) and licensed pursuant to Article 29-I, and their employee providers;
- Providers licensed or certified by the NYS Education Department to provide Applied Behavior Analysis (ABA) therapy; and
- Radiologists licensed pursuant to Article 131 of the Education Law and credentialed by the site from which the radiologist practices.

Hospitals acting as originating sites are required to ensure that physicians who are providing consultations via telehealth at distant sites are appropriately credentialed and privileged. Similarly, hospitals, diagnostic and treatment centers (D&TCs) or office settings serving as the originating site are responsible for ensuring that Certified Diabetes/Asthma Educators providing self-management training services via telehealth are NYS-licensed, registered, or certified and are otherwise appropriately licensed and certified to provide services within their scope of practice.

CONSENT

Written consent by the Medicaid member is not required, but the provider must document informed consent in the member chart before or during the first visit in which telehealth services are provided. Specifically, informed consent means that telehealth practitioners provide members with sufficient information and education about telehealth to assist them in making an informed choice to receive telehealth services, including:

- Confirming that the member is aware of the potential advantage and disadvantages of telehealth, is given the option of not participating in telehealth services, and is provided with information regarding their right to request a change in service delivery mode at any time;
- Informing members that they will not be denied services if they do not consent to telehealth devices or request to receive services in-person; and
- If the member is a minor, also providing consent to the parent/guardian or other person who has legal authority to consent to health care on behalf of the minor.

The provider should also confirm the identity of the member and provide the member with basic information about the services that they will be receiving via telehealth. Informed consent processes should be specified in the policies and procedures of the provider.

TELEHEALTH BILLING GUIDELINES

Payment Parity

Health care services delivered to Medicaid members via telehealth must be reimbursed on the same basis, at the same rate, and to the same extent as equivalent services delivered in-person. These payment parity requirements are effective until April 1, 2024, unless otherwise extended.

However, there are exceptions to these parity requirements for certain costs, including facility fees for Article 28-licensed facilities when neither the originating (patient) nor the distant (provider) site is located within the facility or clinic setting.

Place of Service Code

A place of service (POS) code must be used to document the location of the Medicaid member during the telehealth visits ("originating site"). POS code "02" should be used if telehealth is provided somewhere other than in the home of the patient, and POS code "10" should be used if provided in the home of the patient.

Dual Eligible Enrollees

NYS Medicaid's policy on telehealth coverage for individuals dually enrolled in Medicare and Medicaid ("dual eligibles") is consistent with its pre-pandemic guidance. As such, if Medicare covers the telehealth encounter, Medicaid will reimburse the Part B coinsurance and deductible as usual. If the service is within Medicare's scope of benefits but Medicare does not cover the service when provided via telehealth, NYS Medicaid will not cover the encounter either.

Audio-Only Visits

Audio-only rate codes used during the Covid-19 PHE will be retired. Audio-only E&M codes "99441" through "99443" will continue to be billable. All audio-only claims must include the 93 or FQ modifier unless modifiers are not allowable (e.g., teledentistry). The UA modifier should no longer be used to indicate the service was delivered via audio-only.

Remote Patient Monitoring (RPM)

DOH added information regarding an expansion of covered RPM services provided to pregnant and postpartum Medicaid members, as outlined in the September 2022 Medicaid Update (here). This expansion of coverage, implemented as part of the NYS 2022-23 Enacted Budget, includes the following additional fees specific to maternal care:

- CPT Code 99453 with "HD" modifier may be billed once per patient per pregnancy for the initial set-up of the RPM device/equipment (fee = $14.85); and
- CPT code 99454 with "HD" modifier may be billed once monthly for continuous RPM medical device supply and patient monitoring (fee = $43.23).

However, as a correction to previous guidance, DOH notes that RPM codes 99091 and 99454 cannot be billed on the same day. Both codes are intended to be billed once monthly.

After Hours

An add-on payment of $7.07 is available for visits that occur on evenings, weekends, and holidays. Providers providing services outside of normal hours should bill codes "99050" or "99051" as appropriate with the appropriate telehealth modifiers.

These codes are reimbursed only when accompanied by a valid CPT code that represents an in-office or remote medical service/procedure. The entire visit must occur outside of normal hours. Services occurring after hours due to office/provider delays are not eligible for this supplemental payment.

Medicaid Managed Care

Medicaid managed care (MMC) plans may have separate detailed billing guidance but are required to cover (at a minimum) all services that are covered by NYS Medicaid FFS and included in the MMC benefit package. MMC plans may establish claiming requirements (e.g., specialized coding) that vary from FFS billing instructions in this guidance, but services must be reimbursed in accordance with payment parity requirements. MMC plans are not permitted to limit enrollee access to telehealth/telephonic services to solely the MMC plan telehealth vendors and must cover appropriate telehealth/telephonic services provided by other network providers.

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	Pre-Pandemic	Covid-19 Flexibilities	Post-Pandemic
Permitted Modalities	• Audio-visual telehealth • Store and forward • Remote patient monitoring (RPM)	• Audio-visual telehealth • Audio-only telehealth • Store and forward • RPM	• Audio-visual telehealth (including teledentistry) • Audio-only telehealth • Store and forward • RPM • Virtual Check-In • Virtual Patient Education • Virtual eTriage
Telehealth Providers	Specified list of NYS-licensed and Medicaid-enrolled providers	All NYS-licensed and Medicaid-enrolled providers within their scope of practice	All NYS-licensed and Medicaid-enrolled providers within their scope of practice
Payment Parity	Not required	Required	Required through April 1, 2024, with the exception of certain costs such as facility fees in Article 28 settings
Patient Location ("originating site")	Specified list, including the member's residence within NYS or a temporary location within or outside of NYS	No limits on originating sites	No limits on originating sites
Provider Location ("distant site")	May include any secure location within the U.S. or its territories	May include any secure location within the U.S. or its territories	May include any secure location within the U.S. or its territories
Office of Mental Health (OMH)	Allows for audio-visual "telemental health" with some restrictions and prior approval	Flexibilities include: • Audio-only services • Allowing any authorized provider to deliver within their scope of practice • Expanded definitions of originating/distant sites • No required in-person initial assessment	Adopted final regulations to make permanent most Covid-19 telehealth flexibilities Telehealth guidance for providers is forthcoming

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	Pre-Pandemic	Covid-19 Flexibilities	Post-Pandemic
Office of Addiction Services and Supports (OASAS)	Allows for audio-visual "telepractice" with some restrictions and prior approval	Permit all providers to offer services via telepractice for the duration of the Covid-19 emergency and: • Allow for the distant site to be located anywhere in the U.S. • Allow for originating site to include temporary locations out-of-state • Allow for audio-only services • Waive initial in-person evaluation	Adopted final regulations to make permanent most Covid-19 telehealth flexibilities (in alignment with OMH regulations)
Office for People with Developmental Disabilities (OPWDD)	Recognizes all three applications of telehealth (audio-visual, store-and-forward, and RPM) Independent Practitioner Services for Individuals with I/DD (IPSIDD) may not be delivered via telehealth For clinic, patient may be at their residence or other temporary location while the provider is located at either a main clinic site or certified satellite site	Permit all OPWDD programs and providers to deliver services via telehealth, including IPSIDD providers Audio-only services may not be provided at respite programs	Adopted regulations that permanently allow for remote delivery of Crisis Services for Individuals with I/DD (CSIDD), including audio-only For Article 16 clinics, either the member or the provider must be located on-site in order to receive reimbursement for the telehealth encounter