

TO BE RESCINDED

5160-1-18 **Telehealth.**

(A) For the purposes of this rule, the following definitions apply;

- (1) "Active patient" means that within the previous twelve months at least one in-person physical exam or assessment of the patient has been conducted by the telehealth practice or practitioner acting within the scope of their professional license or by the patient's usual source of medical care that is not an emergency department.
- (2) "Patient site" is the physical location of the patient at the time a health care service is provided through the use of telehealth. The patient site shall be one of the following locations:
 - (a) The office or service location of a provider type specified in paragraph (B) (1) of this rule;
 - (b) The patient's home (including but not limited to homeless shelter, assisted living facility, group home, or temporary lodging);
 - (c) School;
 - (d) Inpatient hospital;
 - (e) Outpatient hospital;
 - (f) Nursing facility; or
 - (g) Intermediate care facility for individuals with an intellectual disability (ICF/IID).
- (3) "Practitioner site" is the physical location of the treating practitioner at the time a health care service is provided through the use of telehealth. The practitioner site shall not be the same location as the patient site.
- (4) "Telehealth" is the direct delivery of health care services to a patient via secure, synchronous, interactive, real-time electronic communication comprised of both audio and video elements. The following activities are not considered telehealth:
 - (a) The delivery of health care service by electronic mail, telephone call, or facsimile transmission;

- (b) Conversations between practitioners regarding a patient without the patient present either physically or via secure, synchronous, interactive, real-time electronic communication.

(B) Eligible providers and service locations

- (1) The following practitioners are eligible to render services through the use of telehealth:
 - (a) Physician as defined in Chapter 4731. of the Revised Code;
 - (b) Psychologist as defined in Chapter 4732. of the Revised Code;
 - (c) Physician assistant as defined in Chapter 4730. of the Revised Code;
 - (d) Clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as defined in Chapter 4723. of the Revised Code;
 - (e) Licensed independent social worker, licensed independent chemical dependency counselor, licensed independent marriage and family therapist, or licensed professional clinical counselor as defined in Chapter 4757. of the Revised Code.
- (2) The following provider types are eligible to bill for services rendered through the use of telehealth:
 - (a) A practitioner identified in paragraph (B)(1) of this rule;
 - (b) A professional medical group;
 - (c) A federally qualified health center (FQHC) or rural health clinic (RHC) as defined in Chapter 5160-28 of the Administrative Code;
 - (d) The following ambulatory health care clinics (AHCC) as described in Chapter 5160-13 of the Administrative Code:
 - (i) Public health department;
 - (ii) Primary care clinic;
 - (iii) Family planning clinic.
- (3) Unless otherwise provided in this rule, the practitioner site must be the practitioner's service location as reported to the Ohio department of medicaid (ODM) in accordance with rule 5160-1-17.8 of the Administrative Code.

(4) There are no restrictions to practitioner site location for services delivered via telehealth when rendered by practitioners identified in paragraph (B)(1) of this rule when any of the following apply:

- (a) The patient is an active patient as defined in this rule;
- (b) The practice is enrolled as a patient centered medical home as defined in rule 5160-1-71 of the Administrative Code; or
- (c) The service provided is an inpatient or office consultation as described in paragraph (D)(3) of this rule.

(C) Requirements and responsibilities.

- (1) All services provided via telehealth shall be provided in accordance with all state and federal laws including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 42 C.F.R. part 2 (as in effect on January 1, 2019).
- (2) The practitioner site must have access to the medical records of the patient at the time of service and is responsible for maintaining documentation in accordance with paragraph (C)(1) of this rule for the health care service delivered through the use of telehealth.
- (3) For practitioners who provide services to an individual via telehealth for a period longer than twelve consecutive months, the individual must remain an active patient as defined in paragraph (A)(1) of this rule.
- (4) Practitioner and patient site locations must be consistent with the current procedural terminology (CPT) and health care common procedure coding systems (HCPCS) guidelines for the service being provided.
- (5) Entities who provide services certified by the Ohio department of mental health and addiction services (OhioMHAS) are not subject to this rule. Requirements for these entities are covered in Chapter 5160-27 of the Administrative Code.

(D) Payment may be made only for the following health care services identified in the appendix to this rule when delivered through the use of telehealth from the practitioner site:

- (1) When provided by a patient centered medical home as defined in rule 5160-1-71 of the Administrative Code, evaluation and management of a new patient described as "office or other outpatient visit" with medical decision making not to exceed moderate complexity.

- (2) Evaluation and management of an established patient described as "office or other outpatient visit" with medical decision making not to exceed moderate complexity.
- (3) Inpatient or office consultation for a new or established patient when providing the same quality and timeliness of care to the patient other than by telehealth is not possible, as documented in the medical record.
- (4) Mental health or substance use disorder services described as "psychiatric diagnostic evaluation" or "psychotherapy."

(E) Submission and payment of telehealth claims.

- (1) The practitioner site may submit a professional claim for health care services delivered through the use of telehealth.
- (2) No institutional (facility) claims may be submitted by the practitioner site for the health care service through the use of telehealth. Services provided in a hospital setting must be billed in accordance with rule 5160-2-02 of the Administrative Code.
- (3) Eligible medicaid-covered services provided through telehealth and identified in a student's approved individualized education program (IEP) are payable under the medicaid school program as defined in Chapter 5160-35 of the Administrative Code.
- (4) Except for FQHCs and RHCs, the payment amount for a health care service delivered through the use of telehealth is the lesser of the submitted charge or the maximum amount shown in appendix DD to rule 5160-1-60 of the Administrative Code for the date of service.
- (5) For a covered service delivered by an FQHC or RHC through the use of telehealth, payment is made in accordance with Chapter 5160-28 of the Administrative Code.
- (6) Individuals who meet the definition of inmate in a penal facility or a public institution as defined in rule 5160:1-1-03 of the Administrative Code are not eligible for reimbursement for telehealth services.
- (7) For any professional claim submitted for health care services utilizing telehealth to be paid it must include:
 - (a) A "GT" modifier;

- (b) If the patient site is a location as stated in paragraphs (A)(3)(b) to (A)(3)(g) of this rule, a modifier indicating the physical location of the patient.
- (c) A place of service code that reflects the physical location of the treating practitioner at the time a health care service is provided through the use of telehealth.

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Certification

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