

**PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID**

**DATE:** May 20, 2019  
**TIME:** 12:00pm  
**LOCATION:** Room A501, Lazarus Building  
50 W Town St., Columbus, Ohio 43215

Pursuant to section 5164.02, 5164.95 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Medicaid gives notice of the department's intent to consider the adoption, amendment, or rescission of the rule or rules as identified below and of a public hearing thereon.

**To be rescinded:** rule 5160-1-18, entitled Telemedicine, is being proposed for rescission because more than 50% of the rule requires amending. It will be replaced by new rule 5160-1-18, entitled Telehealth that is being proposed for adoption.

This rule defines telemedicine as the direct delivery of services to a Medicaid covered individual via synchronous interactive, real-time electronic communication comprised of both audio and video elements. This rule provides definitional information related to originating site, distant site, and requirements surrounding both. It lists five places as a valid originating site and defines the requirements and responsibilities of the originating site regarding documentation and consent. It identifies practitioners eligible to provide services via telemedicine and requirements of the distant site provider.

This rule identifies the type of health care services that may be delivered using telemedicine by eligible practitioners. It sets forth a requirement in which an originating site located within a five-mile radius from the distant site will not be eligible for payment under this rule. Regarding claim payment, this rule identifies the type of claim that may or may not be submitted for services delivered using telemedicine. It requires all appropriate codes and modifiers to be reported on the claim for payment.

This rule indicates that if an originating site provider renders a separate service to the patient on the same date as the health care service delivered using telemedicine, the provider may submit a claim for either the evaluation and management service or telemedicine originating fee. This rule prohibits both a telemedicine originating fee and payment for an evaluation and management service from being paid for on the same day. This rule references the Ohio Administrative Code that sets forth payment for services delivered through use of telemedicine.

**To be adopted:** rule 5160-1-18, entitled Telehealth is a new rule that is being proposed to replace the existing rule that is being proposed for rescission. This new rule expands the existing program which resulted in changes to more than fifty per cent of the existing rule language. This rule provides definitional information, identifies eligible rendering providers and service locations, identifies requirements and responsibilities for services rendered using telehealth and payment for telehealth services. This rule includes many of

the same provisions and language from the rule proposed for rescission however some key changes were made.

The title of the rule is being changed from "telemedicine" to "telehealth" to encompass all the various services that can be provided through electronic communication. The term "telemedicine" has a specific limited definition for physicians.

The definition of "telemedicine" used in the rule to be rescinded is also used to define "telehealth" in this rule however it clarifies that communication must be secure. This new rule adds a definition for "active patient," "health system," and changes the following terminology to provide clarity: "originating site" has been changed to "patient site" and "distant site" has been changed to "practitioner site." This rule removes the five-mile radius restriction and originating site fee found in the current rule and expands the list of patient site locations to include the patient's home or school and Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/IID).

This new rule expands the list of practitioners eligible to render services using telehealth to include physicians' assistants (PA), clinical nurse specialists (CNS), certified nurse-midwives (CNW), certified nurse practitioners (CNP), licensed independent social workers (LISW), licensed independent chemical dependency counselors (LICDC), licensed independent marriage and family therapists (LIMFT), and licensed professional clinical counselors (LPCC). This rule provides fewer restrictions on practitioner site location and allows a practitioner, under certain circumstances, to provide services from any location including their home.

This rule identifies the provider types eligible to bill for services rendered using telehealth and sets forth practitioner site requirements and restrictions. It identifies additional requirements and responsibilities for when a service is provided using telehealth, including documenting patient and practitioner site locations, having access to patient medical records at time of service delivery, coding guidelines and requirements for patients who receive telehealth services for a period longer than twelve consecutive months. This rule expands the services that may be paid for when delivered using telehealth by including certain behavioral health services, inpatient consultation services provided to patients of different health systems, and the procedure codes found in the appendix of this rule. This rule identifies where fee schedules may be found for the services and provider types included in this rule and clarifies that inmates are not eligible for reimbursement for telehealth services.

A copy of the proposed rules is available, without charge, to any person at the address listed below. The rules are also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rules will be held at the date, time, and location listed at the top of this notice. Both written and oral testimony will be taken at the public hearing. Written testimony submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rules and testimony on the rules should be submitted by mail to the Ohio Department of Medicaid Rule Administrator, Office of Chief Legal Counsel, 50 W. Town St., Suite 400, Columbus, Ohio 43215-3414, by fax at (614) 995-1301, or by e-mail at [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov). Testimony received may be reviewed at this address.