

PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID

DATE: 10/1/2020

TIME: 11:00 a.m.

Teleconference Phone Number: 614-721-2972

Teleconference Pin: 240400925#

Pursuant to Chapter 119. and sections 5164.02 and 5164.95 of the Revised Code, the Director of the Ohio Department of Medicaid (ODM) gives notice of ODM's intent to consider the adoption and rescission of the rules identified below and of a public hearing thereon.

**Proposed for rescission: Rule 5160-1-18,** entitled "Telehealth," is being proposed for rescission as more than fifty percent of the rule requires amending. Many provisions from this rule will be contained in a new proposed rule of the same number and title. This rule provides definitional information related to active patients, patient site, practitioner site, and telehealth and requirements surrounding patient and practitioner site. It identifies practitioners eligible to provide services via telehealth and practitioners who are eligible to bill for telehealth services, as well as requirements of the distant site provider. It identifies additional requirements and responsibilities for when a service is provided using telehealth, including following all state and federal laws, 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. The rule includes provisions for submission and payment of claims. This rule provides the codes and modifiers that must be submitted on claims, clarifies that inmates are not eligible for reimbursement for telehealth services and identifies where fee schedules may be found for the services and provider types included in this rule.

**Proposed for adoption: Rule 5160-1-18,** entitled "Telehealth," provides definitional information, identifies eligible rendering and billing providers, identifies covered telehealth services, and provider responsibilities for services rendered using telehealth and payment for telehealth services. It includes the same provisions as rule 5160-1-18 that is being proposed for rescission with the following exceptions:

This new rule expands the definition of telehealth to include the following asynchronous activities that do not have both audio and video elements: telephone calls, remote patient monitoring, and communication through secure electronic mail or a secure patient portal.

This new rule expands the type of practitioners eligible to render services using telehealth to include supervised practitioners such as trainees and aides, Medicaid School Program (MSP) providers, audiologists, speech-language pathologists, occupational therapists, physical therapists, home health and hospice aides, private duty nurses working in a home health or hospice setting, dentists, dietitians, behavioral health practitioners, and optometrists. This rule provides fewer restrictions on patient and practitioner site locations.

This new rule identifies the provider types eligible to bill for services rendered through telehealth and sets forth provider responsibilities when providing and billing for services delivered through telehealth. To the current list, it adds professional dental groups, outpatient hospitals on behalf of licensed psychologists and independent behavioral health practitioners, Medicaid school program (MSP) providers, and hospitals operating under an outpatient hospital behavioral health program. It exempts the following practitioners from eligibility to bill for services rendered through telehealth: supervised practitioners and supervised trainees, occupational therapy assistants, physical therapy assistants, speech-language pathology aides, audiology aides, and individuals holding a conditional license. It removes active patient requirements and replaces it with modified provisions to state that when a patient is seen for a period longer than twelve consecutive months through telehealth, the patient is expected to have at least one in-person annual visit by the telehealth practitioner or practice, or by the individual's usual source of clinical care.

This new rule expands the services that may be paid for when delivered using telehealth to include the following services: remote evaluation of recorded video or images submitted by an established patient, virtual check-in by a physician or other qualified health care professional who can report evaluation and management services provided to an established patient, online digital evaluation and management services for an established patient, remote patient monitoring, physical therapy, occupational therapy, audiology, speech-language therapy, additional behavioral health services, medical nutrition services, lactation counseling provided by dietitians, psychological and neuropsychological testing, smoking and tobacco cessation counseling, developmental test administration, oral evaluations provided by dentists, hospice, state plan home health, dialysis related services, services under the Specialized Recovery Services (SRS) program, and optometry services. The appendix to this rule has been expanded to include additional procedure codes reflecting services added to telehealth under this proposed rule.

This new rule provides requirements for claims submitted for health care services utilizing telehealth. This rule requires the claim to include a "GT" modifier, a place of service code that reflects the physical location of the treating practitioner, and a modifier as identified in the appendix to reflect the physical location of the patient. This new rule allows for a facility claim to be submitted by an outpatient hospital for telehealth services delivered by licensed psychologists and independent behavioral health practitioners.

Pursuant to Section twelve of Am. Sub. H. B. No. 197 ODM will hold the public hearing for this rule package via teleconference. The phone number and pin and the date and time for this hearing are listed at the top of this Notice. All interested parties are invited to participate in the public hearing. Oral and written testimony will be accepted for this hearing and will be given the same consideration. Those who want to give oral testimony are asked to send an email to [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov) no later than one hour before the hearing to be added to the witness list. There will be a final call at the end of the hearing for those who wish to offer oral testimony but are not yet on the witness list.

Written comments submitted via fax, United States Postal Service, and email that are received or postmarked no later than the day of the hearing will be accepted as testimony and become part of the hearing record. All testimony will become public record; therefore, the Ohio Department of Medicaid asks that protected health information only be included if the information belongs to the person submitting the testimony or a person for which the submitter is a legal guardian. Written testimony sent via email is highly recommended, all testimony received via email will receive a confirmation of receipt.

Copies of the proposed rules are 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/>. Requests for a copy of the proposed rules or comments on the rules should be submitted by mail to the Ohio Department of Medicaid, Office of Legal Counsel, 50 W. Town Street, 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).