



State of New Jersey
Department of Human Services
Division of Medical Assistance & Health Services

NEWSLETTER

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TO: All NJ FamilyCare (NJFC) Providers – **For Action**
Health Maintenance Organizations – **For Information Only**

SUBJECT: NJFC Coverage and Reimbursement for Telemedicine and
Telehealth Services

EFFECTIVE: Immediately

PURPOSE: To provide clarification on requirements for the provision and billing of NJFC services via telemedicine and telehealth. Telehealth is defined as the use of electronic communication technologies to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration and other services. Telemedicine and telehealth are often used interchangeably but telemedicine, a subset of telehealth, is considered the clinical application of electronic technology to provide long distance clinical health services. Telehealth is the broader application of communication technology, beyond clinical diagnostics and patient monitoring and shall be used throughout this newsletter to refer to both telemedicine and telehealth services.

BACKGROUND: The New Jersey Telemedicine and Telehealth Law (P.L.2017, c.117) became effective July 21, 2017. The telehealth law requires coverage of telehealth services for NJFC, NJFC managed care, commercial health plans and other state funded health insurance. The law requires that NJFC pay for those services provided via telehealth that would be paid for if the service was provided face-to-face. The law also states that the services must be provided following any applicable State or Federal laws or regulations.

ACTION: The Centers for Medicare & Medicaid Services (CMS) recognizes that telehealth is a cost-effective alternative to the traditional face-to-face interaction between the provider and the Medicaid beneficiary and allows for the provision of telehealth services. However, Medicaid regulations do not recognize telehealth as a distinct service. CMS relies on the standards established for Medicare under 42 CFR § 410.78 which established Medicare guidelines for telehealth services. The telehealth law requires that telehealth be provided using interactive, real-time, two-way communication technologies. The law specifically prohibits, by themselves, the use of audio-only telephone calls, electronic mail, instant messaging, phone texts or images transmitted via facsimile machines. A healthcare provider engaging in telehealth services may use asynchronous store and forward technology for the transmission of

medical information. “Asynchronous store and forward technology” is defined as the acquisition and transmission of a patient’s medical information either to, or from, an originating site to the provider at the distant site, where the provider can review the information without the patient being present. Information includes transmission of images, diagnostics, data and other information necessary to the medical process.

For the purposes of NJFC reimbursement for telehealth services, an “Interactive, real-time, two-way telecommunications system” means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. A provider may use interactive, real-time, two way audio in combination with asynchronous store-and-forward technology, without video communication, if the provider has determined that the provider is able to meet the accepted standard of care provided if the visit was face-to-face. The interactive audiovisual equipment must provide for two-way communication at a minimum bandwidth of 384 kbps (kilobits per second). Telephones, facsimile machines, and electronic mail systems do not meet the definition of an interactive telecommunications system. Sessions may not be recorded.

Please note that several commonly used software programs for audio visual communication were not designed for the purposes of transmitting confidential healthcare information and have received criticism for their security measures. While these programs meet the 128-bit level of encryption, the use of these types of programs could lead to a breach in confidential information and open the provider to charges and financial penalties. Providers are encouraged to utilize software that meets HIPAA standards to ensure protection of personal health information.

For the provision of services, providers are expected to follow the same rules they would follow if the patient visit was face-to-face. This includes instances when a license is for an entity such as an independent clinic. This license is for a specific address and is not tied to specific personnel. In this instance, the service may only be billed when provided at the address listed on the license. When billed by the clinic, the service provider (for example a physician) may provide services from a remote location but the patient must receive those services while physically present at the independent clinic (licensed location). Independent practitioners have a person specific license that is not tied to a specific address. Services billed by independent practitioners do not have location restrictions. The patient and/or the provider may be at any location as long as the provider is licensed to practice in New Jersey. The offsite provider is responsible for determining that the billable service meets all required standards of care. If the provider cannot meet that standard of care via telehealth, the provider shall notify the patient to seek a face-to-face appointment. When a physical evaluation is required, the telehealth provider may utilize an individual licensed to provide physical evaluations (e.g. RN) who is onsite.

If the service being provided is an initial interaction, an initial face-to-face visit is not required to establish a provider-patient relationship. However, the provider must review and be familiar with the patient’s history and medical records, when applicable, prior to

the provision of any telehealth services. All services that are provided shall be documented to show the service was provided by telehealth. The onsite provider/program is responsible for maintaining all documentation of services for which they are the primary, billing provider. Off-site clinicians must have access to the patient's chart with the ability to document the therapeutic services provided.

Prior to seeing the patient, providers are required to establish that telehealth services can be provided under the same standards of care as a traditional face-to face visit. The provider must then establish a proper provider-patient relationship by ensuring authentication and identification of the NJFC patient participating in a telehealth session. This may be done, at a minimum, utilizing the patient's name, date of birth and address. The provider must then identify themselves and disclose their specialty, license and title. The provider shall review the patient's history and available medical records. The provider shall ensure that the patient has sufficient knowledge on how to operate any equipment before the session begins. They shall also ensure that staff is readily available to answer any technical questions or concerns the participant may have before, during or after the session. The provider is responsible to refer the patient to any appropriate follow up or complimentary care as needed. The provider's contact information must be made available to the patient after the provision of services and the provider must be available for at least 72 hours following the provision of services to answer any patient questions or concerns.

For the prescribing of medication, N.J.S.45:1-62.d(2) specifically states "diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire." N.J.S.45:1-62.e further states: "The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian."

A mental health screener, screening service, or screening psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.) shall not be required to obtain a separate authorization in order to engage in telemedicine or telehealth for mental health screening purposes, and shall not be required to request and obtain a waiver from existing regulations, prior to engaging in telemedicine or telehealth. Screening service providers should ensure compliance with any applicable regulations issued by the Division of Mental Health and Addiction services at N.J.A.C. 10:31-1.1 et seq., particularly N.J.A.C. 10:31-2.3(f)2i and -2.3(i).

For Fee-For-Service (FFS) claims submitted to State's fiscal agent, any claim submitted for a telehealth service should include an existing revenue code and/or a HIPAA compliant HCPCS code with a GT modifier. This modifier is for informational purposes only and will not affect payment. FFS payments for telehealth services shall be reimbursed at the same rate as an in-person visit. All costs associated with the provision of telehealth services, including but not limited to the contracting of professional services and the telecommunication equipment, are the responsibility of the provider and are not directly reimbursable by NJFC.

Managed care plans may have different requirements and providers are encouraged to request guidance from those plans with which they have contracts.

If you have any questions concerning this Newsletter, please contact the Division of Medical Assistance and Health Services, Office of Customer Service at (609) 631-4641.

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