

April 23, 2020

Delaware Health & Social Services (DHSS)/
Division of Medical Assistance (DMMA)
Telehealth & COVID-19 FAQ's

➤ *4/23/20 Revisions*

- *Revision made to clarify the use of Place of Service 02 for Telehealth charges.*
- *Revision made to clarify that Providers must be free of any federal sanctions, adverse actions, and encumbrances in order to be considered eligible.*

Provider

1. What resources are available to providers to help navigate and initiate the telehealth process with Delaware Medicaid?

Changes to DMMA Telehealth Policies to Respond to COVID – 19, as well as DMMA's Telehealth & COVID-19 FAQ's can be found on DMMA's website. These will be updated with new information as needed:

<https://dhss.delaware.gov/dhss/dmma/>

Further guidance on telehealth/telemedicine may be found on Medicaid.gov:

<https://www.medicaid.gov/medicaid/benefits/telemedicine/index.html>.

2. What types of providers are eligible to provide Telehealth?

In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, DMMA relaxed eligibility requirements for providers providing Telehealth Services. For services delivered through telehealth technology from DMAP or MCOs to be covered, healthcare practitioners must:

- Act within their scope of practice;
- Be licensed for the service for which they bill DMAP;
 - Any out of state healthcare provider who would be permitted to provide telemedicine services in Delaware if they were licensed under Title 24 may provide telemedicine services to a Delaware resident if they hold an active license in another jurisdiction.
- Be enrolled with, or have engaged in the process to become enrolled with, DMAP/MCOs (**note: Providers must be free of any federal sanctions, adverse actions, and encumbrances*); and
- Be located within the continental United States.

Telehealth Service Provision

1. Are telehealth services only limited to services related to patients with COVID-19?

No. DMMA covers all medically necessary telehealth services and procedures covered under the Title XIX State Plan via telehealth if it is medically appropriate to do so. All telehealth services must be

furnished within the limits of provider program policies and within the scope and practice of the provider's professional standards as described and outlined in DMAP Provider Manuals.

This is a critical point given the importance of social distancing and other strategies recommended to reduce the risk of COVID-19 transmission, since it will prevent vulnerable beneficiaries from unnecessarily entering a health care facility when their needs can be met remotely. For example, a beneficiary could use this to visit with their doctor before receiving another prescription refill.

2. Will DMMA be following CMS Guidance to expand Telehealth Services to Include Telephonic Services?

Yes. In response to COVID-19, DMMA has expanded the methods that Telehealth may be delivered to include Telephonic Services in addition to Interactive Telehealth, if it is determined that Interactive Telehealth Services are unavailable, and Telephonic Services are medically appropriate for the underlying covered service.

Additionally, Effective 3/18/2020 until further notice, Title 24 requirements that patients present in person before telemedicine services may be provided are suspended.

3. Will DMMA be following Office for Civil Rights (OCR) Guidance regarding relaxing HIPAA requirements for Telehealth? Can providers use technology like Skype and FaceTime?

Effective 3/18/20, DMMA will follow guidance issued by the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS).

OCR published a [Notification of Enforcement Discretion](#) ("Notification") regarding HIPAA noncompliance in connection with the provision of telehealth services that states it "will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth" during the public health emergency.

OCR stated telehealth services may be provided using "any non-public facing remote communication product that is available to communicate with patients." This means that more widely used and available consumer services and products that would not typically meet the HIPAA privacy and security standards for telehealth can be used. Examples of such services and products include FaceTime and Skype. Under this Notice, however, Facebook Live, Twitch, TikTok, and similar video communication applications are public facing, and should not be used in the provision of telehealth by covered health care providers.

OCR has also published a [Bulletin](#) on HIPAA during the current public health emergency.

4. How long does Governor Carney's Executive Order to waive some of the State's Telehealth provisions last?

In response to COVID-19, Governor Carney issued the [Second Amended Modification of the State of Emergency](#) issued on March 16th, 2020 which including the suspension of some of Delaware's Telehealth regulations effective March 18, 2020 until further notice.

5. Can we do telehealth visits with patients who reside in PA and MD?

In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, Title 24 requirements that patients be present in Delaware at the time the telemedicine service is provided are suspended, so long as the patient is a Delaware resident.

6. Are there any restrictions on where the patient is located when receiving Telehealth Services?

No. Two distinct sites are necessary for delivering telehealth services. The Originating Site refers to the location of the patient during the telehealth encounter. An approved originating site may include the DMAP member's place of residence or any alternate location in which the member is physically present and telehealth can be effectively utilized.

Additionally, effective 3/18/2020 until further notice, Title 24 requirements that patients be present in Delaware at the time the telemedicine service is provided are suspended, so long as the patient is a Delaware resident.

7. Are there restrictions on where the rendering/distant site provider is located when providing Telehealth Services? Is a physician's residence allowed as a Distant Site?

No. Two distinct sites are necessary for delivering telehealth services. The Distant Site, refers to the site at which the physician or other licensed practitioner delivering the service is located at the time the telehealth service is provided. Generally, providers are not required to be physically present at a specific site, in which case the physician's residence is an acceptable site, as long as the provider is making good faith efforts to protect the patient's privacy rights. However, some state plan services may have site restrictions that do require this. DMMA is working to identify any of these services and lift this requirement where necessary and allowable to maximize telehealth flexibilities during this response and ensure necessary care is delivered.

8. What are the simplest and cheapest options for practices that have never researched or used telehealth to get started with it?

The Centers for Medicare & Medicaid Services (CMS) has published a [General Provider Telehealth and Telemedicine Tool Kit](#) for Medicare providers regarding Telehealth. Although it is geared toward Medicare, there are some helpful links and resources for providers regarding Telehealth Implementation.

The [Notification of Enforcement Discretion](#) ("Notification") regarding HIPAA noncompliance in connection with the provision of telehealth services issued by the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) also contains helpful resources for providers.

9. Will DMMA enforce an established relationship requirement?

No. In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, Title 24 requirements that patients present in person before telemedicine services may be provided are suspended.

It is imperative during this public health emergency that patients avoid travel, when possible, to physicians' offices, clinics, hospitals, or other health care facilities where they could risk their own or others' exposure to further illness.

10. Are there any available flexibilities in implementing the requirement for face-to-face encounters under Medicaid home health? Can telehealth be utilized?

Yes. For initiation of home health services, face-to-face encounters may occur using telehealth as described at 42 C.F.R. §440.70(f)(6). A physician, nurse practitioner or clinical nurse specialist, a certified nurse midwife, a physician assistant, or attending acute or post-acute physician for beneficiaries admitted to home health immediately after an acute or post-acute stay may perform the face-to-face encounter. The allowed non-physician practitioner must communicate the clinical findings of the face-to-face encounter to the ordering physician. Those clinical findings must be incorporated into the beneficiary's written or electronic medical record.

Additionally, the ordering physician must document that the face-to-face encounter occurred within the required timeframes prior to the start of home health services and indicate the practitioner who conducted the encounter and the date of the encounter.

Pharmacy

1. Is a provider allowed to write a prescription to a member via telehealth?

Yes. DMMA continues to allow medications to be prescribed through telehealth. The preferred order of prescribing medications is:

- Secure e-prescribe
- Fax
- Phone
- Hard Copy

In response to COVID-19, Effective 3/18/2020 until further notice provided by Governor John Carney, The Delaware Board of Medical Licensure and Discipline's Regulation 19 regarding restrictions on the use of telemedicine are suspended.

Billing

1. How should providers bill for Telehealth? Can they bill for Telephonic Services?

In general, services must be billed in accordance with applicable sections of DMAP Provider manuals. For Interactive Telehealth Services, the same procedure codes and rates apply to the underlying covered service as if those services were delivered face- to-face.

In response to COVID-19, Effective 3/18/2020 until further notice, Telephonic Services can be provided to any member for any visit not related to an E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment. Billable Telephonic Services must be between the patient and the Physician or other qualified health professional.

Originating Site Providers

If the Health Care Provider at the Originating Site is making a room and telecommunications equipment available the provider may bill for an Originating Facility Fee using code Q3014.

Non-Federally Qualified Health Care Center (FQHC) Distant Site/Rendering Providers

- Distant Site/Rendering Providers billing for *Interactive Telehealth Services* should continue to bill their appropriate Usual & Customary charge for the service provided and use Place of Service Value 02 for all Telehealth charges.
- Distant Site/Rendering Providers billing for *Telephonic Services* should use the following codes as appropriate, and should use Place of Service Value 02 for all Telehealth charges:
 - Physician or other qualified health professional:
 - 99441: 5-10 minutes of medical discussion
 - 99442: 11-20 minutes of medical discussion
 - 99443: 21-30 minutes of medical discussion
 - Qualified Non-Physician:
 - 98966: 5-10 minutes of medical discussion
 - 98967: 11-20 minutes of medical discussion
 - 98968: 21-30 minutes of medical discussion

Federally Qualified Health Care Center (FQHC) Distant Site/Rendering Providers

FQHC Rendering Providers billing for Interactive *Telehealth Services* or *Telephonic Services* should continue to bill their appropriate HCPCS (Healthcare Common Procedure Coding System) “G” visit payment code for each payable encounter visit, along with the appropriate code for the service provided and use Place of Service Value 02 for all Telehealth charges. For Telephonic Services, the same codes listed above should be used as appropriate.

2. How should providers bill for telephonic services, such as telepsychiatry, that are 45-50 minutes?

Distant Site/Rendering Providers billing for *Telephonic Services* should use two codes in this instance. For example, if a telepsychiatry call lasts for 45 minutes, the provider should bill the appropriate 21-30 minutes of medical discussion code (99443 or 98968) and the appropriate 11-20 minutes of medical discussion code (99442 or 98967).

3. How would providers bill if both the member and provider are remote?

Two distinct sites are necessary for delivering telehealth services. The first site, called the Originating Site refers to the location of the patient during the telehealth encounter. An approved originating site may include the DMAP member's place of residence or any alternate location in which the member is physically present and telehealth can be effectively utilized. If the member is at a location other than the provider's facility (for example, at home or at a family member's house) no Originating Site Fee can be billed.

The second site, called the Distant Site, refers to the site at which the physician or other licensed practitioner delivering the service is located at the time the telehealth service is provided. Generally, providers are not required to be physically present at a specific site. However, some state plan services may have site restrictions that do require this. DMMA is working to identify any of these services and lift this requirement where necessary and allowable to maximize telehealth flexibilities during this response and ensure necessary care is delivered. Providers at the Distant Site should bill according to instructions in question 1 above.