

VERMONT DEPARTMENT OF FINANCIAL REGULATION

EMERGENCY RULE H-2020-02-E

**COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH
TELEHEALTH, TELEPHONE, OR STORE AND FORWARD MEANS**

Section 1. Purpose.

This emergency rule is promulgated pursuant to Act 91 of 2020 and in response to the State of Emergency declared by the Governor of the State of Vermont on March 16, 2020 regarding the outbreak of COVID-19. This emergency rule shall be in effect for the duration of the state of emergency. The purpose of this emergency rule is to expand patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services.

Section 2. Definitions.

Terms used in this emergency rule and not defined herein shall have the meanings given to such terms, if any, in 8 V.S.A. § 4100k and 21 V.S.A. § 601.

Section 3. Coverage of Telehealth and Audio-Only Telephone Services.

- (a) Where clinically appropriate, all health insurance plans and workers' compensation insurance carriers shall provide coverage for all health care services delivered remotely through telehealth or audio-only telephone by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. Services covered under this subsection shall include services that are covered when provided in the home by home health agencies.
- (b) Health insurance plans and workers' compensation insurance carriers shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telehealth or audio-only telephone.
- (c) A health insurance plan or workers' compensation insurance carrier may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered remotely through telehealth or audio-only telephone so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.
- (d) A health insurance plan shall cover the same the number of telemedicine consultations as in-person covered services for each covered person.
- (e) Health insurance plans and workers' compensation insurance carriers may require providers to use telemedicine when clinically appropriate, available, and feasible.

- (f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.
- (g) Health insurance plans and workers' compensation insurance carriers may require practices to notify members in advance that services delivered remotely through telehealth or audio-only telephone will be billed as an in-person visit. Any such notification requirements shall permit providers to notify members during the same call in which services are rendered. No other consent to receive services remotely shall be required.
- (h) Health insurance plans and workers' compensation insurance carriers shall not require providers to have an existing patient relationship with a member in order for the member to be reimbursed for health care services described in subsection (a).

Section 4. Coverage of Telephone Triage Services.

- (a) All health insurance plans shall provide coverage and reimbursement for Healthcare Common Procedure Coding System (HCPCS) code G2012 (virtual check-in via telephone) to allow providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed.
- (b) Health insurance plans shall not charge a deductible, co-payment, or coinsurance for telephone triage services.

Section 5. Coverage of Store and Forward Services.

- (a) All health insurance plans shall provide coverage and reimbursement for store and forward HCPCS code G2010 (remote evaluation of a recorded video or image) to determine whether an office visit or other service is needed without member cost-sharing.
- (b) Provisions of Act 91 of 2020 relating to coverage and reimbursement for health care services or dental services delivered by store-and-forward means shall take effect on May 1, 2020 if a declared State of Emergency related to COVID-19 exists at that time.

Section 6. Claims Retroactivity.

All health insurance plans shall process and reimburse appropriate claims for telephone triage services and health care services delivered through telehealth or audio-only telephone retroactively to a date no later than March 13, 2020.

Section 7. Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Consistent with guidance issued by the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) announcing enforcement discretion for noncompliance with the regulatory requirements under the HIPAA Privacy, Security and Breach Notification Rules against covered health care providers in connection with the good faith provision of telehealth

during the COVID-19 nationwide public health emergency, health insurance plans and workers' compensation insurance carriers shall permit providers to utilize any non-public facing remote communication product that is available to communicate with patients.

Further guidance is available on the HHS website at: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Section 8. Mental Health Parity.

Health insurance plans may not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental condition delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services than for access to treatment for other health conditions, including no greater co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care provider under an insured's policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist provider under an insured's policy.

Section 9. Physical Location of Remote Services.

Health insurance plans and workers' compensation insurance carriers may not deny or limit coverage or reimbursement of health care services delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services based solely on the physical location of the patient or provider.