

**Title 13 – Department of Social Services
Division 70 – MO HealthNet Division
Chapter 3 – Conditions of Provider Participation, Reimbursement, and Procedure of
General Applicability**

PROPOSED RULE

13 CSR 70-3.330 Telemedicine Services

PURPOSE: The purpose of this rule is to establish the division's guidelines regarding coverage and reimbursement for telemedicine services. The goal of this policy is to allow greater access to care for MO HealthNet participants.

(1) Administration.

(A) The telemedicine program shall be administered by the MO HealthNet Division (MHD). This rule is established pursuant to the authority granted to the Missouri Department of Social Services, MO HealthNet Division (MHD), to promulgate rules governing the practice of telemedicine in the MO HealthNet Program and to provide services under established, approved MO HealthNet benefits.

(B) Definitions.

1. Asynchronous store-and-forward shall mean the transfer of a participant's clinically important digital samples, such as still images, videos, audio, text files, and relevant data from an originating site through the use of a camera or similar recording device that stores digital samples that are forwarded via telecommunication to a distant site for consultation by a consulting provider without requiring the simultaneous presence of the participant and the participant's treating provider.

A. Asynchronous store-and-forward technology shall mean cameras or other recording devices that store images which may be forwarded via telecommunication devices at a later time.

B. Asynchronous store-and-forward transfer shall mean the collection of a participant's relevant health information and the subsequent transmission of that information from an originating site to a provider at a distant site without the participant being present.

2. Distant site shall mean a telemedicine site where the health care provider providing the telemedicine service is physically located.

3. Originating site shall mean a telemedicine site where the MO HealthNet participant receives the telemedicine service. Originating sites include, but are not necessarily limited to health care provider facilities, participants' homes, and schools. For the purposes of asynchronous store-and-forward transfer, the originating site shall also mean the location from which the referring provider transfers information to the distant site.

4. Licensed health care provider-patient relationship shall mean that a health care provider licensed under Chapter 334, RSMo, and/or other providers utilizing telemedicine, shall ensure that a properly established provider-patient relationship exists with the participant who receives telemedicine services.

5. Telemedicine shall mean the delivery of health care services by means of information and communication technologies that facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a participant's health care while such participant is at the originating site and the provider is at the distant site. Telemedicine shall also include the use of telephonic or asynchronous store-and-forward technology. Telemedicine services must be performed with the same standard of care as an in-person, face-to-face service.

6. Health care professional shall mean a physician or other health care practitioner licensed, accredited, or certified by the state of Missouri to perform specified health services consistent with state law.

7. Health care provider or provider shall mean a health care professional or a health care facility.

8. Health care service shall mean a service for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including but not limited to the provision of drugs or durable medical equipment.

(2) Providers.

(A) Any licensed/enrolled health care professional shall be authorized to provide telemedicine services if such services to MHD participants are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. This shall not prohibit a health care entity from reimbursing nonclinical staff for services otherwise allowed by law. This includes applied behavior analysis services rendered by a registered behavior technician under the supervision of a licensed behavior analyst or licensed psychologist or any individual provider delivering services within a Department of Mental Health (DMH) licensed, contracted, and/or certified organization.

(B) In order to treat participants in this state through the use of telemedicine, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards. In addition, psychologists licensed in a Psychology Interjurisdictional Compact (PSYPACT) state may render telemedicine services under the Authority to Practice Interjurisdictional Telepsychology, according to the requirements in the PSYPACT.

(C) A health care provider utilizing telemedicine at either a distant site or an originating site shall be enrolled as a MO HealthNet provider pursuant to 13 CSR 65-2.020 and be fully licensed for practice in the state of Missouri. A health care provider utilizing telemedicine must do so in a manner that is consistent with the provisions of all laws governing the practice of the provider's profession and shall be held to the same standard of care as a provider employing in-person behavioral health or medical health care.

(D) For purposes of the provision of telemedicine services in the MO HealthNet Program, the provider-patient relationship may be established by the following:

1. An in-person encounter through a medical interview and physical examination;
2. Consultation with another health care professional, or that health care professional's delegate, who has an established relationship with the patient and an agreement with the health care professional to participate in the patient's care; or
3. A telemedicine encounter, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

(E) In order to establish a provider-patient relationship through telemedicine:

1. The technology utilized shall be sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in person; and

2. Prior to providing treatment, including issuing prescriptions and physician certifications under Article XIV of the *Missouri Constitution*, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for diagnosis and treatment of the patient. A questionnaire completed by the patient, whether via the telephone or internet, does not constitute a medical interview and examination for provision of treatment via telemedicine.

(F) A provider agrees to conform to MO HealthNet program policies and instructions as specified in the provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website <http://manuals.momed.com/manuals/>, November 10, 2021. This rule does not incorporate any subsequent amendments or additions.

(3) Covered Services.

(A) A telemedicine service shall be covered only if it is medically necessary.

(B) A telemedicine service must be performed with the same standard of care as an in-person, face-to-face service. If the same standard of care cannot be met, a telemedicine service shall not be provided.

(4) Prior Authorization and Utilization Review.

(A) Utilization Review. All services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, before payment is made, or after payment is made. The standards and processes for utilization review for telemedicine services shall be the same as those for services not provided through telemedicine.

(B) Prior Authorization. Certain procedures or services can require prior authorization from the MO HealthNet Division or its authorized agents. Services for which prior authorization shall be obtained remain subject to utilization review at any point in the payment process. A service provided through telemedicine is subject to the same prior authorization and utilization review requirements, standards, and processes that exist for the service when not provided through telemedicine.

(C) Eligibility Determination. Prior authorization of services does not guarantee an individual is eligible for a MO HealthNet service. Providers must verify that an individual is eligible for a specific program at the time services are furnished and must determine if the participant has other health insurance.

(D) School Services. Prior to the provision of telemedicine services in a school, the parent or guardian of the child shall provide authorization for the provision of such service. Such authorization shall include the ability for a parent or guardian to authorize services via telemedicine in the school for the remainder of the school year.

(5) Reimbursement.

(A) Reimbursement to the health care provider delivering the telemedicine service at the distant site shall be made at the same amount as the current fee schedule for an in-person service.

(B) The originating site is eligible to receive an originating site/facility fee.

(C) Reimbursement of the originating site fee will be made according to the MO HealthNet Fee Schedule.

(6) Documentation for the Telemedicine Encounter.

(A) Patient records at the distant and originating sites (if a referral is given at the originating site) are to document the telemedicine encounter consistent with the service documentation described in MO HealthNet provider manuals and bulletins.

(B) A health care provider shall keep a complete medical record of a telemedicine service, provided to a participant, including asynchronous store-and-forward images and follow applicable state and federal statutes and regulations for medical record keeping and confidentiality in accordance with 13 CSR 70-3.030.

(C) Records shall be maintained per standards established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and in accordance with 13 CSR 70-3.030.

(7) Confidentiality and Data Integrity.

(A) All telemedicine activities must comply with the requirements of HIPAA.

(B) A provider of a telemedicine service shall implement confidentiality protocols, which shall be available for inspection by the department upon request.

(C) Participant privacy and confidentiality must be maintained at all times while receiving all telemedicine services.

AUTHORITY: sections 208.153, 208.201, 208.670, and 660.017, RSMo.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.