

211.336 Duties of agency promulgating administrative regulations relating to telehealth -- Restrictions.

If a state agency authorized or required to promulgate administrative regulations relating to telehealth chooses to promulgate an administrative regulation relating to telehealth, the state agency:

- (1) Shall:
 - (a) Use terminology consistent with the glossary of telehealth terminology established by the cabinet pursuant to KRS 211.334; and
 - (b) Comply with the minimum requirements established by the cabinet pursuant to KRS 211.334;
- (2) Shall not:
 - (a) Require a provider to be physically present with the recipient, unless the state agency or provider determines that it is medically necessary to perform those services in person;
 - (b) Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
 - (c) Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
 - (d) Require demonstration that it is necessary to provide services to a patient through telehealth;
 - (e) Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services;
 - (f) Prohibit the delivery of telehealth services to a person located in Kentucky by a provider who is a participant in a recognized interstate compact and delivers telehealth services to a person in Kentucky under the standards and provisions of that interstate compact;
 - (g) Prohibit an insurer or managed care organization from utilizing audits for medical coding accuracy in the review of telehealth services specific to audio-only encounters; or
 - (h) Require a provider to be part of a telehealth network; and
- (3) May promulgate administrative regulations, which shall be no more restrictive than administrative regulations for providers who deliver healthcare services in person, to establish additional requirements relating to telehealth, including requirements:
 - (a) For the proper use and security of telehealth;
 - (b) To address emergency situations, including but not limited to suicidal ideations or plans; threats to self or others; evidence of dependency, neglect, or abuse; or other life-threatening conditions;
 - (c) To prevent waste, fraud, and abuse of telehealth services, both in general and specific to the provision of telehealth services delivered via audio-only encounters; or

- (d) That a telehealth provider be licensed in Kentucky, or as allowed under the standards and provisions of a recognized interstate compact, in order to receive reimbursement for telehealth services.

Effective: June 29, 2021

History: Created 2021 Ky. Acts ch. 67, sec. 3, effective June 29, 2021.