

**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 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;
- (h) Require a provider to be part of a telehealth network;
- (i) Prohibit the delivery of telehealth services to a person who is a permanent resident of Kentucky who is temporarily located outside of Kentucky by a provider who is credentialed by a Kentucky professional licensure board;
- (j) Prohibit the delivery of telehealth services to a person who is not a permanent resident of Kentucky who is temporarily located in Kentucky by a provider who is credentialed by a professional licensure board in the person's state of permanent residence; or
- (k) Require a health care provider to be physically located in the state that he or she is credentialed in by a professional licensure board in order to provide telehealth services to a person who is a permanent resident of the same state. Nothing in this paragraph shall be construed to imply that the Kentucky

Medicaid program would be responsible for reimbursement for any services provided in Kentucky by a provider not credentialed by the Kentucky Medicaid program; 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:** July 14, 2022

**History:** Amended 2022 Ky. Acts ch. 68, sec. 1, effective July 14, 2022. -- Created 2021 Ky. Acts ch. 67, sec. 3, effective June 29, 2021.