

205.5591 Medicaid providers using telehealth -- Duties of cabinet, Department for Medicaid Services, and managed care organizations -- Administrative regulations -- Policies and guidelines.

- (1) For purposes of this section, "equivalent" has the same meaning as in KRS 304.17A-138.
- (2) The cabinet shall provide oversight, guidance, and direction to Medicaid providers delivering care using telehealth.
- (3) The Department for Medicaid Services shall:
 - (a) Within thirty (30) days after June 29, 2021:
 1. Promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for telehealth coverage and reimbursement rates, which shall be equivalent to coverage requirements and reimbursement rates for the same service provided in person unless the telehealth provider and the department or a managed care organization contractually agree to a lower reimbursement rate for telehealth services; and
 2. Create, establish, or designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section and KRS 205.559;
 - (b) Require that specialty care be rendered by a health care provider who is recognized and actively participating in the Medicaid program;
 - (c) Require that any required prior authorization requesting a referral or consultation for specialty care be processed by the patient's primary care provider and that any specialist coordinate care with the patient's primary care provider; and
 - (d) Require a telehealth provider to 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.
- (4) In accordance with KRS 211.336, the Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services shall not:
 - (a) Require a Medicaid provider to be physically present with a Medicaid 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 Medicaid 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 Medicaid recipient through telehealth;
 - (e) Restrict or deny coverage of telehealth based solely on the communication

technology or application used to deliver the telehealth services; or

- (f) Require a Medicaid provider to be part of a telehealth network.
- (5) Nothing in this section shall be construed to require the Medicaid program or a Medicaid managed care organization to:
- (a) Provide coverage for telehealth services that are not medically necessary; or
 - (b) Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.
- (6) The cabinet, in implementing KRS 211.334 and 211.336, shall maintain telehealth policies and guidelines to providing care that ensure that Medicaid-eligible citizens will have safe, adequate, and efficient medical care, and that prevent waste, fraud, and abuse of the Medicaid program.
- (7) In order to comply with the deadline for the promulgation of administrative regulations established in subsection (3) of this section, the Department for Medicaid Services may promulgate emergency administrative regulations in accordance with KRS 13A.190.

Effective: July 14, 2022

History: Amended 2022 Ky. Acts ch. 68, sec. 3, effective July 14, 2022. -- Amended 2021 Ky. Acts ch. 62, sec. 3, effective June 29, 2021; and ch. 67, sec. 8, effective June 29, 2021. -- Created 2018 Ky. Acts ch. 187, sec. 1, effective July 1, 2019.