

**304.17A-138 Telehealth coverage and reimbursement -- Requirements for health benefit plan -- Reimbursement for rural health clinics, federally qualified health centers, and federally qualified health center look-alikes -- Benefits subject to deductible, copayment, or coinsurance -- Payment subject to provider network arrangements -- Audio-only encounters -- Administrative regulations.**

- (1) As used in this section:
  - (a) "Equivalent" means reimbursement in an amount equal to what reimbursement would have been had the service been furnished in person by that provider at the provider's place of service;
  - (b) "Federally qualified health center" means the same as in 42 U.S.C. sec. 1396d;
  - (c) "Federally qualified health center look-alike" means an organization that meets all of the eligibility requirements of a federally qualified health center but does not receive federal grants issued pursuant to 42 U.S.C. sec. 254b;
  - (d) "Originating site" means the site at which a Medicaid beneficiary is physically located at the time a telehealth service or telehealth consultation is provided;
  - (e) "Provider" means the same as in KRS 304.17A-005 and also includes behavioral health professionals licensed under KRS Chapters 309, 319, and 335;
  - (f) "Telehealth" has the same meaning as in KRS 211.332; and
  - (g) "Rural health clinic" means the same as in 42 U.S.C. sec. 1395x.
- (2)
  - (a) A health benefit plan, issued or renewed on or after January 1, 2022, shall reimburse for covered services provided to an insured person through telehealth, including telehealth services provided by a home health agency licensed under KRS Chapter 216. Telehealth coverage and reimbursement shall, except as provided in paragraph (b) of this subsection, be equivalent to the coverage for the same service provided in person unless the telehealth provider and the health benefit plan contractually agree to a lower reimbursement rate for telehealth services.
  - (b) Rural health clinics, federally qualified health centers, and federally qualified health center look-alikes shall be reimbursed as an originating site in an amount equal to that which is permitted under 42 U.S.C. sec. 1395m for Medicare-participating providers, if the insured was physically located at the rural health clinic, federally qualified health center, or federally qualified health center look-alike at the time of service or consultation delivery and the provider of the telehealth service or telehealth consultation is not employed by the rural health clinic, federally qualified health center, or federally qualified health center look-alike.
- (3) In accordance with KRS 211.336, a health benefit plan, issued or renewed on or after January 1, 2022:
  - (a) Shall not:
    1. Require a provider to be physically present with a patient or client,

unless the provider determines that it is necessary to perform those services in person;

2. Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
  3. Require demonstration that it is necessary to provide services to a patient or client through telehealth;
  4. 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;
  5. Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or
  6. Require a provider to be part of a telehealth network;
- (b) Shall:
1. Require that telehealth services reimbursed under this section meet all clinical, technology, and medical coding guidelines for recipient safety and appropriate delivery of services established by the Department of Insurance or the provider's professional licensure board;
  2. 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; and
  3. Reimburse a rural health clinic, federally qualified health clinic, or federally qualified health center look-alike for covered telehealth services provided by a provider employed by the rural health clinic, federally qualified health clinic, or federally qualified health center look-alike, regardless of whether the provider was physically located on the premises of the rural health clinic, federally qualified health clinic, or federally qualified health center look-alike when the telehealth service was provided; and
- (c) May utilize audits for medical coding accuracy in the review of telehealth services specific to audio-only encounters.
- (4) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided in person.
- (5) Nothing in this section shall be construed to require a health benefit plan 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) Providers and home health agencies are strongly encouraged to use audio-only

encounters as a mode of delivering telehealth services when no other approved mode of delivering telehealth services is available.

- (7) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

**Effective:** July 14, 2022

**History:** Amended 2022 Ky. Acts ch. 68, sec. 4, effective July 14, 2022. -- Amended 2021 Ky. Acts ch. 67, sec. 10, effective January 1, 2022. -- Amended 2018 Ky. Acts ch. 187, sec. 5, effective July 1, 2019. -- Amended 2010 Ky. Acts ch. 24, sec. 1215, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 24, sec. 28, effective June 26, 2007. -- Created 2000 Ky. Acts ch. 376, sec. 7, effective July 15, 2001.