

1 AN ACT relating to telehealth.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 205.559 is amended to read as follows:

4 (1) The Cabinet for Health and Family Services and any managed care organization
5 with whom the Department for Medicaid Services contracts for the delivery of
6 Medicaid services shall provide Medicaid reimbursement for covered telehealth
7 services and telehealth consultations, if the telehealth service or telehealth
8 consultation:

9 (a) Is provided by a Medicaid-participating practitioner, including those
10 employed by a home health agency licensed pursuant to KRS Chapter 216, to
11 a Medicaid recipient or another Medicaid-participating practitioner at a
12 different physical location; and

13 (b) Meets all clinical, technology, and medical coding guidelines for recipient
14 safety and appropriate delivery of services established by the Department for
15 Medicaid Services or the provider's professional licensure board.

16 (2) (a) For rural health clinics, federally qualified health centers, and federally
17 qualified health center look-alikes, reimbursement for covered telehealth
18 services and telehealth consultations shall:

19 1. To the extent permitted under federal law, include an originating site fee
20 in an amount equal to that which is permitted under 42 U.S.C. sec.
21 1395m for Medicare-participating providers if the Medicaid beneficiary
22 who received the telehealth service or telehealth consultation was
23 physically located at the rural health clinic, federally qualified health
24 center, or federally qualified health center look-alike at the time of
25 service or consultation delivery and the provider of the telehealth service
26 or telehealth consultation is not employed by the rural health clinic,
27 federally qualified health center, or federally qualified health center

1 look-alike; or

2 2. If the telehealth service or telehealth consultation provider is employed
3 by the rural health clinic, federally qualified health center, or federally
4 qualified health center look-alike, include a supplemental
5 reimbursement paid by the Department for Medicaid Services in an
6 amount equal to the difference between the actual reimbursement
7 amount paid by a Medicaid managed care organization and the amount
8 that would have been paid if reimbursement had been made directly by
9 the department.

10 (b) A request for reimbursement shall not be denied solely because:

11 1. An in-person consultation between a Medicaid-participating practitioner
12 and a patient did not occur; or

13 2. A Medicaid-participating provider employed by a rural health clinic,
14 federally qualified health center, or federally qualified health center
15 look-alike was not physically located on the premises of the clinic or
16 health center when the telehealth service or telehealth consultation was
17 provided.

18 (c) Telehealth services and telehealth consultations shall not be reimbursable
19 under this section if they are provided through the use of a facsimile machine,
20 text, chat, or electronic mail unless the Department for Medicaid Services
21 determines that telehealth can be provided via these modalities in ways that
22 enhance recipient health and well-being and meet all clinical and technology
23 guidelines for recipient safety and appropriate delivery of services.

24 (3) (a) A health-care facility that receives reimbursement under this section for
25 consultations provided by a Medicaid-participating provider who practices in
26 that facility and a health professional who obtains a consultation under this
27 section shall establish quality-of-care protocols, which may include a

1 requirement for an annual in-person or face-to-face consultation with a patient
2 who receives telehealth services, and patient confidentiality guidelines to
3 ensure that telehealth consultations meet all requirements and patient care
4 standards as required by law.

5 (b) The Department for Medicaid Services and any managed care organization
6 with whom the department contracts for the delivery of Medicaid services
7 shall not deny reimbursement for telehealth services covered by this section
8 based solely on quality-of-care protocols adopted by a health-care facility
9 pursuant to paragraph (a) of this subsection.

10 (4) The cabinet shall not require a telehealth consultation if an in-person consultation
11 with a Medicaid-participating provider is reasonably available where the patient
12 resides, works, or attends school or if the patient prefers an in-person consultation.

13 (5) *Notwithstanding any provision of law to the contrary, neither the Department for*
14 *Medicaid Services nor a Medicaid managed care organization with whom the*
15 *department has contracted for the delivery of Medicaid services shall require that*
16 *a health professional, as defined in KRS 205.510, or medical group maintain a*
17 *physical location or address in this state to be eligible for enrollment as a*
18 *Medicaid provider if the provider or group exclusively offers services via*
19 *telehealth as defined in KRS 211.332.*

20 (6) The cabinet shall request any waivers of federal laws or regulations that may be
21 necessary to implement this section and KRS 205.5591.

22 (7)~~(6)~~ Medicaid-participating practitioners and home health agencies are strongly
23 encouraged to use audio-only encounters as a mode of delivering telehealth services
24 only when no other approved mode of delivering telehealth services is available.

25 (8)~~(7)~~ As used in this section:

26 (a) "Federally qualified health center" means the same as in 42 U.S.C. sec.
27 1396d;

- 1 (b) "Federally qualified health center look-alike" means an organization that
2 meets all of the eligibility requirements of a federally qualified health center
3 but does not receive federal grants issued pursuant to 42 U.S.C. sec. 254b;
- 4 (c) "Originating site" means the site at which a Medicaid beneficiary is physically
5 located at the time a telehealth service or telehealth consultation is provided;
6 and
- 7 (d) "Rural health clinic" means the same as in 42 U.S.C. sec. 1395x.