

§4316. Coverage for telehealth services

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Mobile health device" means a wearable device used to track health and wellness, including, but not limited to, a heart rate and respiratory monitor, an electrocardiogram monitor and a glucose monitor. [PL 2019, c. 289, §2 (NEW).]

A-1. "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as amended. [PL 2019, c. 649, §3 (NEW).]

B. "Store and forward transfers" means transmission of an enrollee's recorded health history through a secure electronic system to a provider. [PL 2019, c. 289, §2 (NEW).]

B-1. "Asynchronous encounters" means the interaction or consultation between an enrollee and the enrollee's provider or between providers regarding the enrollee through a system with the ability to store digital information, including, but not limited to, still images, video, audio and text files, and other relevant data in one location and subsequently transmit such information for interpretation at a remote site by health professionals without requiring the simultaneous presence of the patient or the health professionals. [PL 2021, c. 291, Pt. A, §4 (NEW).]

B-2. "Synchronous encounters" means a real-time interaction conducted with interactive audio or video connection between an enrollee and the enrollee's provider or between providers regarding the enrollee. [PL 2021, c. 291, Pt. A, §4 (NEW).]

C. "Telehealth," as it pertains to the delivery of health care services, means the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. [PL 2021, c. 291, Pt. A, §4 (AMD).]

D. "Telemonitoring," as it pertains to the delivery of health care services, means the use of information technology to remotely monitor an enrollee's health status via electronic means, allowing the provider to track the enrollee's health data over time. Telemonitoring may be synchronous or asynchronous. [PL 2021, c. 291, Pt. A, §4 (AMD).]

E. [PL 2021, c. 291, Pt. A, §4 (RP).]
[PL 2021, c. 291, Pt. A, §4 (AMD).]

2. Parity for telehealth services. A carrier offering a health plan in this State may not deny coverage on the basis that the health care service is provided through telehealth if the health care service would be covered if it were provided through in-person consultation between an enrollee and a provider and as long as the provider is acting within the scope of practice of the provider's license and in accordance with rules adopted by the board, if any, that issued the provider's license related to standards of practice for the delivery of a health care service through telehealth. Coverage for health care services provided through telehealth must be determined in a manner consistent with coverage for health care services provided through in-person consultation. If an enrollee is eligible for coverage and the delivery of the health care service through telehealth is medically appropriate, a carrier may not deny coverage for telehealth services. A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to a comparable service provided through in-person consultation. A carrier may not exclude a health care service from coverage solely because such health care service is provided only through a telehealth encounter, as long as telehealth is appropriate for the provision of such health care service. [PL 2021, c. 291, Pt. A, §5 (AMD).]

3. Coverage for telehealth services. Except as provided in this section, a carrier shall provide coverage for any medically necessary health care service delivered through telehealth as long as the following requirements are met.

A. The health care service is otherwise covered under an enrollee's health plan. [PL 2019, c. 289, §2 (NEW).]

B. The health care service delivered by telehealth is of comparable quality to the health care service delivered through in-person consultation. [PL 2019, c. 289, §2 (NEW).]

C. Prior authorization is required for telehealth services only if prior authorization is required for the corresponding covered health care service. An in-person consultation prior to the delivery of services through telehealth is not required. [PL 2019, c. 289, §2 (NEW).]

D. Coverage for telehealth services is not limited in any way on the basis of geography, location or distance for travel. [PL 2019, c. 289, §2 (NEW).]

E. The carrier shall require that a clinical evaluation is conducted either in person or through telehealth before a provider may write a prescription that is covered. [PL 2019, c. 289, §2 (NEW).]

F. The carrier shall provide coverage for the treatment of 2 or more persons who are enrolled in the carrier's health plan at the same time through telehealth, including counseling for substance use disorders involving opioids. [PL 2019, c. 289, §2 (NEW).]

G. The carrier may not place any restriction on the prescribing of medication through telehealth by a provider whose scope of practice includes prescribing medication that is more restrictive than any requirement in state and federal law for prescribing medication through in-person consultation. [PL 2021, c. 291, Pt. A, §6 (NEW).]

[PL 2021, c. 291, Pt. A, §6 (AMD).]

4. Telemonitoring requirements. A carrier shall provide coverage for telemonitoring if:

A. The telemonitoring is intended to collect an enrollee's health-related data, including, but not limited to, pulse and blood pressure readings, that assist a provider in monitoring and assessing the enrollee's medical condition; [PL 2019, c. 289, §2 (NEW).]

B. The telemonitoring is medically necessary for the enrollee; [PL 2019, c. 289, §2 (NEW).]

C. The enrollee is cognitively and physically capable of operating the mobile health devices or the enrollee has a caregiver willing and able to assist with the mobile health devices; and [PL 2021, c. 293, Pt. A, §29 (AMD).]

D. The enrollee's residence is suitable for telemonitoring. If the residence appears unable to support telemonitoring, the telemonitoring may not be provided unless necessary adaptations are made. [PL 2019, c. 289, §2 (NEW).]

[PL 2021, c. 293, Pt. A, §29 (AMD).]

5. Coverage for telephonic services.

[PL 2021, c. 291, Pt. A, §7 (RP).]

6. Utilization review. This section does not prohibit or limit a carrier from conducting a utilization review for telehealth services as long as the utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for an in-person consultation for the same service.

[PL 2019, c. 289, §2 (NEW).]

7. Provider eligibility. In order to be eligible for reimbursement under this section, a provider providing health care services through telehealth must be acting within the scope of the provider's license. A carrier may not impose additional credentialing requirements or prior approval requirements

for a provider as a condition of reimbursement for health care services provided under this section unless those credentialing requirements or prior approval requirements are the same as those imposed for a provider that does not provide health care services through telehealth.
[PL 2019, c. 289, §2 (NEW).]

8. Telehealth equipment. A carrier may not require a provider to use specific telecommunications technology and equipment as a condition of coverage under this section as long as the provider uses telecommunications technology and equipment that comply with current industry interoperability standards and that comply with standards required under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and regulations promulgated under that Act.
[PL 2019, c. 289, §2 (NEW).]

9. Medicare coverage policy. A carrier may provide coverage for health care services delivered through telehealth that is consistent with the Medicare coverage policy for interprofessional Internet consultations. If a carrier provides coverage consistent with the Medicare coverage policy for interprofessional Internet consultations, the carrier may also provide coverage for interprofessional Internet consultations that are provided by a federally qualified health center or rural health clinic as defined in 42 United States Code, Section 1395x, subsection (aa)(1993).
[PL 2019, c. 649, §4 (NEW).]

10. Network adequacy. The availability of health care services through telehealth may not be considered for the purposes of demonstrating the adequacy of a carrier's network pursuant to section 4303, subsection 1 and Bureau of Insurance Rule Chapter 850: Health Plan Accountability.
[PL 2021, c. 291, Pt. A, §8 (NEW).]

SECTION HISTORY

PL 2009, c. 169, §1 (NEW). PL 2019, c. 289, §2 (RPR). PL 2019, c. 649, §§3, 4 (AMD). RR 2019, c. 2, Pt. A, §28 (COR). PL 2021, c. 291, Pt. A, §§4-8 (AMD). PL 2021, c. 293, Pt. A, §29 (AMD).

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