

105.190      Telemedicine

8-1-18

Telemedicine is defined as the use of electronic information and communication technology to deliver healthcare services including without limitation, the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient. Telemedicine includes store-and-forward technology and remote patient monitoring.

Store-and-forward technology is the transmission of a patient's medical information from a healthcare provider at an originating site to a healthcare provider at a distant site. Remote patient monitoring means the use of electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare provider at a distant site for use in the treatment and management of medical conditions that require frequent monitoring.

Arkansas Medicaid shall provide payment to a licensed or certified healthcare professional or a licensed or certified entity for services provided through telemedicine if the service provided through telemedicine is comparable to the same service provided in person. Payment will include a reasonable facility fee to the originating site operated by a licensed or certified healthcare professional or licensed or certified healthcare entity if the professional or entity is authorized to bill Arkansas Medicaid directly for healthcare services. There is no facility fee for the distant site. The professional or entity at the distant site must be an enrolled Arkansas Medicaid Provider.

Coverage and reimbursement for services provided through telemedicine will be on the same basis as for services provided in person. While a distant site facility fee is not authorized under the Telemedicine Act, if reimbursement includes payment to an originating site (as outlined in the above paragraph), the combined amount of reimbursement to the originating and distant sites may not be less than the total amount allowed for healthcare services provided in person.

#### Professional Relationship

The distant site healthcare provider will not utilize telemedicine services with a patient unless a professional relationship exists between the provider and the patient. A professional relationship exists when:

1. The healthcare provider has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care;
2. The healthcare provider personally knows the patient and the patient's health status through an ongoing relationship and is available to provide follow-up care;
3. The treatment is provided by a healthcare provider in consultation with, or upon referral by, another healthcare provider who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment including follow-up care;
4. An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare provider or another healthcare provider who has established a professional relationship with the patient; or
5. A relationship exists in other circumstances as defined by the Arkansas State Medical Board (ASMB) or a licensing or certification board for other healthcare providers under the jurisdiction of the appropriate board if the rules are no less restrictive than the rules of the ASMB.

- a. A professional relationship is established if the provider performs a face to face examination using real time audio and visual telemedicine technology that provides information at least equal to such information as would have been obtained by an in-person examination. (See ASMB Regulation 2.8); or
- b. If the establishment of a professional relationship is permitted via telemedicine under the guidelines outlined in ASMB regulations, telemedicine may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter and only under the safeguards established by the healthcare professional's licensing board (See ASMB Regulation 38 for these safeguards including the standards of care).

A professional relationship does not include a relationship between a healthcare provider and a patient established only by the following:

1. An internet questionnaire;
2. An email message;
3. A patient-generated medical history;
4. Audio only communication, including without limitation interactive audio;
5. Text messaging;
6. A facsimile machine (Fax) and EFax; or
7. Any combination of the above;
8. Any future technology that does not meet the criteria outlined in this section.

The existence of a professional relationship is not required when:

1. An emergency situation exists; or
2. The transaction involves providing information of a generic nature not meant to be specific to an individual patient.

Once a professional relationship is established, the healthcare provider may provide healthcare services through telemedicine, including interactive audio, if the healthcare services are within the scope of practice for which the healthcare provider is licensed or certified and in accordance with the safeguards established by the healthcare professionals licensing board. The use of interactive audio is not reimbursable under Arkansas Medicaid.

#### Telemedicine with a Minor

Regardless of whether the individual is compensated for healthcare services, if a healthcare provider seeks to provide telemedicine services to a minor in a school setting and the minor is enrolled in Arkansas Medicaid, the healthcare provider shall:

1. Be the designated Primary Care Provider (PCP) for the minor;
2. Have a cross-coverage arrangement with the designated PCP of the minor; or
3. Have a referral from the designated PCP of the minor.

If the minor does not have a designated PCP, this section does not apply. Only the parent or legal guardian of the minor may designate a PCP for a minor.

#### Telemedicine Standard of Care

Healthcare services provided by telemedicine, including without limitation a prescription through telemedicine, shall be held to the same standard of care as healthcare services provided in



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person. A healthcare provider providing telemedicine services within Arkansas shall follow applicable state and federal laws, rules and regulations regarding:

1. Informed consent;
2. Privacy of individually identifiable health information;
3. Medical record keeping and confidentiality, and
4. Fraud and abuse.

A healthcare provider treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board. This requirement does not apply to the acts of a healthcare provider located in another jurisdiction who provides only episodic consultation services.