General Statewide Telehealth – COVID-19 Frequently Asked Questions

Updated: 4/1/20

Q: Can Nebraska health care providers use telehealth?

A: Nebraska statutes, including but not limited to N.R.S. § 38-1,143, currently authorize "any credential holder under the Uniform Credentialing Act" to use telehealth in establishing a provider-patient relationship, except those holding credentials under the:

- Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- Dialysis Patient Care Technician Registration Act;
- Environmental Health Specialists Practice Act;
- Funeral Directing and Embalming Practice Act;
- Massage Therapy Practice Act;
- Medical Radiography Practice Act;
- Nursing Home Administrator Practice Act;
- Perfusion Practice Act;
- Surgical First Assistant Practice Act;
- Veterinary Medicine and Surgery Practice Act; and
- Water Well Standards and Contractors' Practice Act.

Any provider under the Uniform Credentialing Act may provide services (as appropriate to the service) through telehealth.

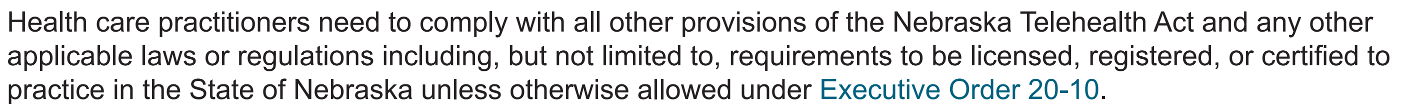
Q: What about out-of-state providers who come to Nebraska to help during the coronavirus emergency?

A: Out-of-state providers who work in Nebraska pursuant to Executive Order 20-10, Coronavirus, Additional Healthcare Workforce Capacity, are authorized to use telehealth under the same statutory provisions that permit Nebraska health care providers to use telehealth.

Q: Do providers have to obtain written consent from patients before providing telehealth services?

A: Because a declared state of emergency related to the coronavirus (COVID-19) is in effect, health care providers are not required to obtain a patient's signature on a written agreement prior to providing telehealth services, and insurance claims for telehealth will not be denied solely on the basis of lack of a signed written statement.

The Nebraska Telehealth Act, Neb. Rev. Stat. §§ 71-8501 to 71-8508, generally requires that a written statement be signed by a patient prior to an initial telehealth consultation. This written statement requirement is cross-referenced at Neb. Rev. Stat. § 44-312, which defines insurers' duties related to telehealth. However, the Department of Health and Human Services and the Department of Insurance have read an exception to the written statement requirement at § 71-8505(4) for emergency situations to apply during this declared state of emergency.



Health care practitioners need to comply with all other provisions of the Nebraska Telehealth Act and any other applicable laws or regulations including, but not limited to, requirements to be licensed, registered, or certified to practice in the State of Nebraska unless otherwise allowed under Executive Order 20-10.

Q: What about HIPAA?

A: The U.S. Department of Health and Human Services' Office for Civil Rights Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency provides information about Health Insurance Portability and Accountability Act (HIPAA) waivers for telehealth.

Under this notification, providers can use any non-public-facing remote communication product to communicate with patients during the coronavirus emergency. This specifically excludes applications like Facebook Live, Twitch, TikTok, and similar video communications that are considered public-facing. As federal guidance continues to be issued on this topic, Nebraska Medicaid will abide by any federal guidance issued related to HIPAA-approved or allowable technology options.

Providers who are working remotely still must be able to protect the health information of the their patients, including ensuring that documentation is protected and no unauthorized person has access to protected health information, up to and including being able to hear or see the content of service delivery. See Medicaid or Division of Behavioral Health FAQs listed below for additional documentation standards.

Medicaid-Specific Telehealth FAQ

Q: Can Nebraska Medicaid be billed for services provided through telehealth?

A: Medicaid is authorized to make payment for services provided through telehealth as set out in the Nebraska Telehealth Act. Providers must be enrolled as a Nebraska Medicaid provider and comply with HIPAA requirements and guidance from the HHS Office for Civil Rights. The Nebraska Telehealth Act's requirement that Medicaid providers obtain prior written consent from patients has been determined to be suspended during the declared emergency, as discussed above.

Some allowances discussed in this FAQ are in the process of review by the Centers for Medicare & Medicaid Services (CMS) and are subject to CMS approval. Once the declared state of emergency has ended, all face-to-face elements of the service shall again be required to be performed in person.

Q: I'm already a Medicaid-enrolled provider. Do I have to enroll as a telehealth provider?

A: You do <u>not</u> need to enroll as a telehealth provider.

Q: What codes am I able to use to bill Medicaid for telehealth services?

A: You are able to use all codes you were previously able to use when billing for telehealth services.

Q: Do I need to use a modifier when billing Medicaid for telehealth services?

A: For Medicaid-covered services delivered via telehealth or telephone, all providers, including behavioral health providers, must submit claims using a "GT" modifier. There are alternative modifiers for community support non-licensed providers.

Q: Are telehealth services reimbursed by Medicaid at the same rate paid for face-to-face encounters?

A: Per Nebraska statute 71-8506, telehealth services are reimbursed at the same rate as face-to-face encounters.

Q: Can Medicaid providers provide services by telephone if the patient does not have audio/visual equipment available?

A: Providing services through audio/visual equipment is preferred. In instances where the patient does not have access to audio/visual equipment, DHHS will allow telephone treatments or services if it is clinically appropriate and the treatment or service can meet the standard service expectations.

Q: Are there new codes specific for COVID-19 for Medicaid?

A: Temporary codes specifically for COVID-19 are listed in Provider Bulletin 20-06. These are telephone codes that can be used for limited management or virtual check-in of a patient. These codes are only temporary and are not intended to replace existing procedure codes, only to add flexibility in the type of services you can charge for in this emergency situation. Please see Provider Bulletin 20-06 for full code definition. Some codes to use are listed below:

- **99441-99443:** Telephone evaluation and management established patient by MD, nurse practitioner, or physician assistant.

- **98966-98968:** Telephone assessment and management by a qualified behavioral health practitioner (see questions specific to behavioral health providers below).

- **G2012:** Brief communication technology-based by MD, nurse practitioner, or physician assistant lasting 5-10 minutes for patient actively experiencing mild symptoms of COVID-19 and referred by provider to an emergency department, urgent care or other health care facility.

Q: Is written patient consent required prior to treatment via telehealth for purposes of Medicaid?

A: As previously noted, there is currently an emergency situation in effect in Nebraska related to COVID-19. This means written consent is not required prior to providing a treatment or service via telehealth although verbal consent is required prior to telehealth service. The provider must document why written consent was unable to be obtained. The patient must receive the following information verbally:

- Patient has the option to refuse telehealth without affecting patient's right to future care.
- Provider must inform the patient all existing confidentiality protections shall apply to service being provided by telehealth.
- Sharing of any patient identifiable images or information from the telehealth visit to researchers or other individuals will not occur without the consent of the patient.

If a patient does not want to receive treatment or services through telehealth, the provider shall assist the patient in finding alternative care. All other non-telehealth consent practices remain in effect at this time. A parent or legal guardian may give the verbal consent for telehealth treatment or service.

Q: How do Medicaid providers ensure confidentiality is protected while providing services via telehealth or telephone and/or while working remotely?

A: Providers who are providing services through telehealth or telephone must be able to protect the health information of the patient by ensuring documentation is protected and no unauthorized person has access to protected health information, up to and including being able to hear or see the content of service delivery. This includes providers working remotely (meaning not within a licensed facility). Providers can use any certified HIPAA-compliant technology platforms for the delivery of telehealth services.

Q: Are service expectations the same for Medicaid services delivered in person as for those delivered via audio/visual equipment or telephonically?

A: All treatment or services submitted for reimbursement must be delivered in accordance with existing service definitions. All treatments and services are expected to be rendered in a clinically appropriate manner and to be directly related to the patient's treatment needs or treatment plan. Providers are expected to document the rationale for delivery of treatment or services through telephonic means as an appropriate method for each consumer.

Q: Can I still bill Medicaid for a service if I cannot meet minimum service expectations due to a patient's risk or exposure to COVID-19 or due to related workforce challenges?

A: It is expected that providers have mitigation plans in place and provide active and ongoing assessment on their ability to meet patients' most immediate and critical treatment needs.

Q: Will Medicaid cover prenatal care by telehealth?

A: You are able to use all codes you were previously able to use when billing for telehealth services in addition to the new codes related to COVID-19 in Provider Bulletin 20-06. Please reference other guidance in this document in regards to audio/visual equipment versus telephone.

Q: Can Medicaid providers provide lactation counseling services through telehealth?

A: Yes, lactation counseling can be provided through telehealth.

Q: Can Medicaid providers provide services that require hands-on treatment?

A: Any treatment or service that requires "hands-on" service by the provider cannot be done via telehealth or telephone.

Q: I'm a behavioral health provider. Can I use the assessment and management service procedure codes listed in Provider Bulletin 20-06?

A: The assessment and management procedure codes listed in Provider Bulletin 20-06 are available to provide options for telephonic treatment and services. These codes are only temporary and are not intended to replace existing procedure codes. They only add flexibility in the type of services you can bill for in this emergency situation. Please remember that this modality of care is a last resort and to be used only if it can be documented that the beneficiary does not have access to audio/visual equipment.

The codes 98966, 98967, and 98968 may be used by the following behavioral health providers:

- Psychologist (PhD/PsyD)
- Provisional psychologist (PHD provisional)
- Licensed independent mental health worker (LIMHP)
- Licensed mental health worker (LMHP)
- Provisionally licensed mental health worker (PLMHP)
- Licensed alcohol and drug counselor (LADC)
- Provisionally licensed alcohol and drug counselor (PLADC)

Q: Does Medicaid allow the provision of community support through telehealth?

A: The Division of Medicaid Long-Term Care (MLTC) is temporarily allowing community support to be done via telehealth. As clinically appropriate, you can offer HIPAA-compliant two-way, real-time interactive audio and visual telehealth. All visits, regardless of modality of communication, must be clinically necessary to work on treatment goals as outlined in the patient's plan of care. Visit documentation must include the modality of communication, the rationale for that modality, and the duration of the intervention. When billing for telehealth, the GT modifier must be used. Codes appropriate to use for community support services are H2015 with modifiers HT, HO, HF, HN, U1, and HM. Community support through telehealth must have appropriate clinical supervision as required by treatment service definition.

Q: Does Medicaid allow occupational therapy and physical therapy via telehealth?

A: MLTC has allowed some routine services, such as occupational therapy and physical therapy, to be delivered via telehealth in accordance with existing service definitions. This remains unchanged. Services that are available via telehealth, which needs to be both audio and visual, are procedures that include evaluation and reevaluation. Anything that requires one-to-one patient contact does not qualify for telehealth. Medicaid continues to review and will modify the covered services as medically appropriate.

Q: Does Medicaid allow speech therapy via telehealth?

A: MLTC has allowed some routine services, such as speech therapy, to be delivered via telehealth in accordance with existing service definitions. This remains unchanged. Services that are available via telehealth, which needs to be both audio and visual, are evaluation and reevaluation procedures. Any treatments for swallowing dysfunction, aphasia, and cognitive function do not qualify for telehealth. **Speech therapies are not allowed to be provided via telephone.** Medicaid continues to review and will modify the covered services as medically appropriate.

Q: Does Medicaid allow school-based services through telehealth?

A: Many schools are going to an online format. Per MLTC regulations, telehealth is covered for school-based services, excluding nursing, personal assistance, and transportation. In order to bill Medicaid for school-based speech and language services, provided either in person or through telehealth, the provider must be a licensed speech-language pathologist.

Q: Can home health services be provided through telehealth?

A: Home health initial assessments and recertification assessments may be completed by using telehealth for nurses, physicians and nurse practitioners. Ongoing visits per individual plan of care may be completed by using telehealth for nurses. Telehealth may be used for nurse supervisory visits. All services that require one-to-one contact cannot be provided through telehealth.

Q: Can hospice services be provided through telehealth?

A: Hospice initial assessments and recertification assessments may be completed using telehealth by the appropriate nurse, physician and nurse practitioner. Ongoing visits per individual plan of care may be completed by using telehealth for nurses. Routine home care services can be provided through telehealth unless the service requires one-to-one contact.

Q: What other services does Medicaid exclude from telehealth?

A: Excluded services include: inpatient services, crisis stabilization, mental health and substance use disorder residential services, mental health respite, social detoxification, hospital diversion, and day treatment.

Division of Behavioral Health Telehealth FAQ

Q: Can providers of behavioral health services deliver services via telehealth to limit exposure to COVID-19?

A: The Division of Behavioral Health (DBH) has allowed some routine services, such as outpatient therapy, to be delivered via telehealth in accordance with existing service definitions. In response to COVID-19, the DBH is expanding the services allowed to be delivered via telehealth. With limited exceptions, all assessment, treatment, and rehabilitative services currently funded by the DBH can be provided through telehealth in order to support continuity of care for consumers.

It is understood that telehealth may not be an appropriate service delivery option for all consumers or all services. Most facility-based services, such as those in the list below, would not be adequately delivered via telehealth.

- Inpatient services
- Crisis stabilization
- Mental health and substance use disorder residential services
- Mental health respite
- Social detoxification
- Hospital diversion
- Day treatment

While some components of facility-based services may not be delivered via telehealth, it may be necessary to deliver some elements of these service via telehealth during this time.

Q: If audio/visual equipment is not an option for the delivery of behavioral health services, can providers deliver services via telephone?

A: When behavioral health services cannot be provided in-person or via audio/visual equipment, telephonic service delivery will be allowed during this time. For purposes of this FAQ, guidance related to telehealth-delivered services includes telephone-based service delivery.

Q: Are service expectations the same for behavioral health services delivered in person compared to those delivered via audio/visual equipment or telephone?

A: To the greatest extent possible, services delivered via audio/visual equipment or telephone should be comparable in intensity, duration and content to those delivered in person. It is understood that some service elements (e.g., group-based care) may be more complicated or otherwise not conducive to being delivered via

telehealth. In these cases, providers may identify alternative interventions, as appropriate, to meet the consumer's need. Services provided are to be rendered in a clinically appropriate recovery-oriented manner, be directly related to the consumer's treatment or rehabilitation plan, and evidence delivery of active treatment or rehabilitation interventions regardless of the delivery method.

Q: Are documentation expectations different when delivering behavioral health services via audio/visual equipment or telephone?

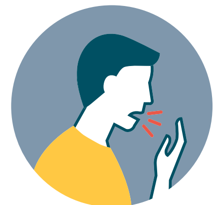
A: In addition to existing documentation standards for services funded through the DBH, providers will need to document the rationale for delivery of services by audio/visual equipment or telephone as an appropriate method for each consumer. In addition, all documentation needs to clearly identify which interventions (service or service components and dates of service) were delivered via telehealth or telephone.

Q: Is there any specific code that needs to be entered in the Centralized Data System (CDS) or Electronic Billing System (EBS) to identify a behavioral health service as delivered via audio/visual equipment or telephone?

A: There is no change to current data entry practices in CDS or EBS for services delivered via audio/visual equipment or telephone. The consumer clinical chart should clearly identify when services are delivered via audio/visual equipment or telephone.

Q: How do behavioral health providers ensure confidentiality is protected while providing services via audio/visual equipment or telephone or while working remotely?

A: Providers must ensure compliance with state and federal confidentiality requirements when providing services in person, via audio/visual equipment, or by telephone. Providers who are working remotely must be able to protect the health information of the consumers served, including ensuring documentation is protected and no unauthorized person has access to protected health information, up to and including being able to hear or see the content of service delivery.



As always, providers may use certified HIPAA-compliant technology platforms for the delivery of services. DBH will also abide by any COVID-19 specific federal guidance issued related to confidentiality, practice standards, and other matters.

Q: Can I still bill for a behavioral health service if I cannot meet minimum service expectations due to measures taken to prevent exposure or consumer/provider illness, or due to related workforce challenges?

A: For many providers, service expectations will continue to be met for most service encounters. When services are delivered via audio/visual equipment or telephone, it may not be realistic to meet all service expectation standards, especially for high-intensity services or specific intervention types. When services cannot be delivered to the full service expectation, the provider will document the specific barriers that were identified and attempts to resolve these barriers. Providers may also identify appropriate "substitute" interventions to best match consumer needs with available service delivery options during this time. For example, if group therapy cannot be adequately delivered via telehealth, additional individual sessions may be considered.

Q: A behavioral health service my agency provides has been "closed" per Centers for Disease Control and Prevention (CDC) guidance on social distancing. Can I continue to bill during the period of closure?

A: It's important to understand the meaning of "closed." Providers have continuity of operation plans or business interruption plans for unusual or disaster-related events. An office location may no longer be open, but the office services continue through remote or virtual offices and telephonic forwarding to a staff person working from home. It's important that consumers are aware of and understand if their services are truly interrupted or closed and the alternate method of delivery available to them. If a service provider closes or suspends the provision of services and does not continue to provide approved services through alternative means, such as via audio/visual equipment or telephone, no reimbursement will be issued. In this situation, the provider should make referrals to alternative providers/services to continue to meet the needs of the consumer. Notification of service suspensions/closures will need to be communicated to appropriate agencies.

If the agency is moving services from office- or facility-based access to audio/visual equipment or telephonic delivery, the guidance listed throughout this document is applicable.

Q: My agency is concerned about limiting exposure risk to our current consumer behavioral health population and staff. Is it necessary to reduce or delay admissions into service or delay consumer discharges?

A: All providers should be assessing program capacity and making determinations on admission and discharge practices based on factors including available workforce, community spread, known COVID-19 exposure, and other factors.

To ensure consumers continue to receive the most appropriate and effective interventions necessary to meet their needs, each service provider should assess consumer needs and continue to deliver services, as appropriate, in person or via audio/visual equipment or telephone. If admission is not available to the consumer, interim services or referrals to alternative services/providers should be made immediately on behalf of the consumer.

Q: Will "remote tele-monitoring" for delivery of developmental disability waiver services be allowed?

A: For anyone affected by the potential outbreak of COVID-19, recommended closures, isolation, quarantines, or following the CDC guidelines for those with disabilities, tele-monitoring for independent living, supported family living, adult day, habilitative community inclusion, and habilitative workshop can be delivered via an electronic method of service delivery when determined appropriate by the team. This is to encourage frequent check-ins and socialization. Tele-monitoring may also be used for cueing and prompting while running habilitation programs, but is not intended for continuous supervision.

Q: What about reimbursement by private payers?

A: DHHS does not have authority over the terms or amount of reimbursements for telehealth services by private payers.