
TITLE 18 INSURANCE
DELAWARE ADMINISTRATIVE CODE

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DEPARTMENT OF INSURANCE
OFFICE OF THE COMMISSIONER
1400 Health Insurance Specific Provisions

1409 Insurance Coverage for Telemedicine and Telehealth

1.0 Authority

This regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§311, 3370 and 3571R and is promulgated in accordance with 29 **Del.C.** Chapter 101.

24 DE Reg. 488 (11/01/20)

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telehealth.

"Originating site" means a site in Delaware at which a patient is located at the time health care services are provided to the patient by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used. Notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

"Store and forward transfer" means the synchronous or asynchronous transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time, as set forth in 24 **Del.C.** §6001(4).

"Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, health-care provider consultation, patient and professional health-related education, public health, health administration, and other services as authorized in 24 **Del.C.** Ch. 60.

"Telemedicine" is a subset of telehealth which is the delivery of clinical health-care services and other services, as authorized in 24 **Del.C.** Ch. 60, by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a health-care provider legally allowed to practice in the state and practicing within the health-care provider's scope of practice as would be practiced in-person with a patient, while such patient is at an originating site and the health-care provider is at a distant site.

24 DE Reg. 488 (11/01/20)

24 DE Reg. 285 (09/01/21)

3.0 Compliance with Statutes Regarding Telemedicine and Telehealth

Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each managed care organization and health maintenance organization providing a health care plan for health care services shall comply with the provisions of 18 **Del.C.** §§3370 and 3571R, and this regulation.

4.0 Telehealth

- 4.1 Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each managed care organization and health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telehealth. Coverage for health care services provided through telehealth shall be provided so long as the underlying health care

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service is a covered service and the health care provider providing the service is licensed to furnish the service under State law and is practicing within the scope of State law, including but not limited to 24 **Del.C.** Ch. 60.

- 4.2 No insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; health service corporation providing individual or group accident and sickness subscription contracts; or managed care organization or health maintenance organization providing a health care plan for health care services shall impose any limitation on the ability of an insured to seek medical care through the use of telehealth service solely because the health care service is being provided through telehealth. Such prohibited limitations shall include, but not be limited to, preauthorization, medical necessity, homebound requirements, or requiring the use of technology permitting visual communication.

24 DE Reg. 488 (11/01/20)

25 DE Reg. 285 (09/01/21)

5.0 Severability

If any provision of this regulation or the application of any such provision to any person or circumstance shall be held invalid, the remainder of such provisions, and the application of such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected.

6.0 Effective Date

This regulation became effective on February 11, 2016, ten (10) days after being published as a final regulation. The amendments to the regulation, effective November 11, 2020 (the 2020 amendments) on July 1, 2021, unless extended by order of the Commissioner. The expiration date of the 2020 amendments was removed by operation of the Telehealth Access Preservation and Modernization Act of 2021, HB 160/HA1 (151st Gen. Assembly) and by order of the Commissioner dated July 19, 2021.

19 DE Reg. 768 (02/01/16)

24 DE Reg. 488 (11/01/20)

25 DE Reg. 285 (09/01/21)