

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 311, 3370, and 3571R
(18 Del.C. §§311, 3370, & 3571R)

FINAL

ORDER

Docket No. 2988-2015

1409 Insurance Coverage for Telemedicine and Telehealth

Proposed Regulation 1409 relating to Insurance Coverage for Telemedicine and Telehealth was published in the Delaware *Register of Regulations* on December 1, 2015. The comment period remained open until December 31, 2015. There was no public hearing on proposed Regulation 1409. Public notice of the proposed Regulation 1409 was published in the *Register of Regulations* in conformity with Delaware law.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Comments were received on the proposed Regulation 1409 from:

- ERISA Industry Committee - Allison M. Wils, Director, Health Policy

The collective comments were reviewed and considered, with no amendments being suggested. No substantive changes were made to the proposed Regulation 1409.

FINDINGS OF FACT

Based on Delaware law and the record in this docket, I make the following findings of fact:

1. 18 Del.C. §§311, 3370, and 3571R require a regulation to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Code.
2. The requirements of proposed Regulation 1409 best serve the interests of the public and of insurers and comply with Delaware law.

DECISION AND EFFECTIVE DATE

Based on the provisions of 18 Del.C. §§311, 3370, and 3571R; and 29 Del.C. Ch. 101, and the record in this docket, I hereby adopt proposed Regulation 1409 as may more fully and at large appear in the version attached hereto to be effective 10 days after being published as final.

TEXT AND CITATION

The text of proposed Regulation 1409 last appeared in the *Register of Regulations* Vol. 19, Issue 6, pages 469-471.

IT IS SO ORDERED this 1st day of February, 2016.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

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 3751R and is promulgated in accordance with 29 Del.C. Chapter 101.

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 him or her by means of telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, 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 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.

“Telehealth” means the use of information and communications technologies consisting of telephones, store and forward transfers, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, and health administration services.

“Telemedicine” means a form of telehealth which is the delivery of clinical health-care services 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 practicing within his or her scope of practice as would be practiced in-person with a patient, and legally allowed to practice in the State, while such patient is at an originating site and the health-care provider is at a distant site.

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 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.

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 or homebound requirements.

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 shall become effective ~~on February~~, 2016 ten (10) days after being published as a final regulation].