

# Kentucky

**Medicaid Program:** Kentucky Medicaid

**Program Administrator:** Kentucky Dept. for Medicaid Services

**Regional Telehealth Resource Center:** Mid-Atlantic Telehealth Resource Center

**Covers the States of:** Delaware, Kentucky, Maryland, North Carolina, New Jersey, Pennsylvania, Virginia, and West Virginia as well as the District of Columbia

[www.matrc.org](http://www.matrc.org)

## Recently Adopted Legislation (Effective Jul. 1, 2019)

KY Medicaid is required to reimburse for covered services provided to a Medicaid recipient through telehealth. The Department must establish requirements for telehealth coverage and reimbursement which are equivalent to the coverage for the same service provided in-person unless the telehealth provider and the Medicaid program agree to a lower reimbursement rate for telehealth services, or the Department establishes a different reimbursement rate.

KY Medicaid is restricted from doing the following:

- Requiring a Medicaid provider to be physically present with a Medicaid recipient, unless the provider determines that it is medically necessary to perform those services in-person;
- Requiring prior authorization, medical review or administrative clearance for telehealth that would not be required if a service were provided in-person;
- Requiring a Medicaid provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in-person;
- Require demonstration that it is necessary to provide services to a Medicaid recipient through telehealth;
- Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth service; OR
- Require a Medicaid provider to be part of a telehealth network.

**Source:** KY Revised Statutes. 205.5591.

## Recently Adopted Legislation (Effective Jul. 1, 2019)

Telehealth means the delivery of health care-related services by a Medicaid provider who is a health care provider licensed in Kentucky to a Medicaid recipient through a face-to-face encounter with access to real-time interactive audio and video technology or store-and-forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the Medicaid recipient's medical history prior to the telehealth encounter; shall not include the delivery of services through electronic mail, text chat, facsimile or standard audio-only telephone call; and shall be delivered over a secure communications connection that complies with federal HIPAA.

"Telehealth consultation means a medical or health consultation, for purposes of patient diagnosis or treatment, that meets the definition of telehealth in this section."

**Source:** KY Revised Statutes. 205.510.

Definitions

Telehealth means two-way, real time interactive communication between a patient and a physician or practitioner located at a distant site for the purpose of improving a patient’s health through the use of interactive telecommunication equipment that includes, at a minimum, audio and video equipment.

**Source:** KY 907 KAR 1:055E.

“Telemedicine” means two-way, real time interactive communication between a patient and a physician or practitioner located at a distant site for the purpose of improving a patient’s health through the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment.

**Source:** KY 907 KAR 9:005.

“Telehealth medical services: The originating-site or spoke site is the location of the eligible Kentucky Medicaid recipient at the time the telehealth service is being furnished via an interactive telehealth service communications system. The distant or hub site is the location of the provider and is considered the place of service. An interactive telehealth service communication system includes interactive audio and video equipment permitting two-way real time interactive communication between the patient and the practitioner at the originating and distant-sites.”

**Source:** KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011. (Accessed Sept. 2018).

Live Video

Policy

Kentucky Medicaid will reimburse for a “telehealth consultation”, which includes live video.

**Source:** KY Revised Statutes 205.559.

Reimbursement shall not be denied solely because an in-person consultation between a provider and a patient did not occur.

**Source:** KY Revised Statutes § 205.559. (Effective until Jul. 1, 2019).

Telehealth services, provided at an originating site is covered to the same extent the service and provider are covered when furnished face-to-face.

**Source:** KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011. (Accessed Sept. 2018).

Telehealth consultation requires two-way interactive video, referral by a health care provider and a referral by a recipient’s lock-in provider (if applicable).

**Source:** KY Admin. Regs. Title, 907, 3:170 Sec. 2, (6)a-c. (Accessed Sept. 2018).

Eligible Services / Specialties

Coverage is limited to:

- Consultation
- Mental health evaluation and management services
- Individual and group psychotherapy
- Pharmacologic management
- Psychiatric/psychological/mental health diagnostic interview examinations
- Individual medical nutrition therapy consultation services

**Source:** KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011 & KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2018).

Additional Covered Services in Administrative Regulations:

- Individual diabetes self-management training
- Occupational Therapy evaluation or treatment (provided by OTs)
- Physical therapy evaluation or treatment (provided by PTs)
- Speech therapy evaluation or treatment (provided by speech therapist)
- Neurobehavioral status examination
- End-stage renal disease monitoring, assessment or counseling consultation

All telehealth services have additional restrictions.

**Source:** KY Admin. Regs. Title, 907, 3:170.

Telehealth services are subject to utilization review.

**Source:** KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011 & KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2018).

Prior authorization is needed for select telehealth procedures.

**Source:** KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011. (Accessed Sept. 2018).

**Covered Services in a Community Mental Health Center**

- Psychiatric diagnostic interview examination
- Pharmacologic management
- Group psychotherapy
- Mental health evaluation or management emergency services
- Mental health assessment
- Individual psychotherapy

**Source:** KY Admin. Regs. Title, 907, 3:170.

Live video GT modifier for “telehealth consultation” accepted by Medicaid.

**Source:** KY Primary Care Services for Non-Federally Qualified Health Clinic Medicaid Manual. Pg. 34 Sept. 2017. (Accessed Sept. 2018).

Eligible providers for services NOT in a Community Mental Health Center:

- A psychiatrist;
- A licensed clinical social worker;
- A psychologist;
- A licensed professional clinical counselor;
- A licensed marriage and family therapist;
- A physician;
- An APRN;
- Speech-language pathologist;
- Occupational therapist;
- Licensed dietitian or certified nutritionist;
- Physical therapist or
- Registered nurse or dietitian
- Optometrist (not in Medicaid SPA, only listed in regulation)
- Chiropractor (not in Medicaid SPA, only listed in regulation)
- Physician assistant (not in Medicaid SPA, only listed in regulation)
- 
-

# Medicaid Telehealth Reimbursement

Live Video	Eligible Providers	<p>Eligible providers for services in a Community Mental Health Center:</p> <ul style="list-style-type: none"> <li>• A psychiatrist;</li> <li>• A physician;</li> <li>• Psychologist with a license in accordance with KRS 319.010(6);</li> <li>• A licensed marriage and family therapist;</li> <li>• A licensed professional clinical counselor;</li> <li>• A psychiatric medical resident;</li> <li>• A psychiatric registered nurse;</li> <li>• A licensed clinical social worker;</li> <li>• An advanced practice registered nurse</li> </ul> <p>Restrictions apply for all professionals.</p> <p><b>Source:</b> KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011 &amp; KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2018)</p>
	Eligible Sites	No reference found.
	Geographic Limits	No reference found.
	Facility/Transmission Fee	No reference found.
Store-and-Forward	Policy	<p>KY Medicaid does not cover other forms of store-and-forward, as a telehealth consultation requires a two-way interactive video.</p> <p><b>Source:</b> KY Admin. Regs. Title, 907, 3:170, Sec. 1(47).</p>

# Medicaid Telehealth Reimbursement

Store-and-Forward	Eligible Services/Specialties	<p>Kentucky reimburses for tele-radiology but there is no other reference to reimbursing for other specialties.</p> <p><b>Source:</b> <i>KY Physician Medicaid Manual. Aug. 2017. Pg. 40. (Accessed Sept. 2018).</i></p> <p>Beginning Jul. 1, 2019 KY Medicaid is required to reimburse telehealth consultations, which encompasses store-and-forward.</p> <p><b>Source:</b> <i>KY Revised Statutes 205.559.</i></p>
	Geographic Limits	No reference found.
	Transmission Fee	No reference found.
Remote Patient Monitoring	Policy	<p>Not later than July 1, 2017 the department must establish a pilot project which creates coverage provisions and reimbursement criteria for telemonitoring services. CCHP has found no information regarding the commencement of this pilot.</p> <p><b>Source:</b> <i>KY Rev. Statute. Ch. 205. (HB 95 – 2016).</i></p>
	Conditions	No reference found.
	Provider Limitations	No reference found.

# Medicaid Telehealth Reimbursement

Remote Patient Monitoring	Other Restrictions	No reference found.
Email / Phone / Fax	<p>No reimbursement for email.          No reimbursement for telephone.          No reimbursement for FAX.</p> <p><b>Source:</b> <i>KY Revised Statutes § 205.559 (2)(b).</i></p>	
Consent	<p>The Cabinet must ensure informed consent.</p> <p><b>Source:</b> <i>KY Statute Sec. 205.5591 (2).</i></p> <p>Before providing a telehealth consultation, providers must document written patient informed consent.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• The patient may refuse the telehealth consultation at any time without affecting the right to future care or treatment, and without risking the loss or withdrawal of a benefit to which the patient is entitled;</li> <li>• The recipient shall be informed of alternatives to the telehealth consult;</li> <li>• The recipient shall have access to medical information resulting from the telehealth consult as provided by law;</li> <li>• The dissemination, storage, or retention of an identifiable recipient image or other information from the telehealth consult shall comply with all state and federal confidentiality laws and regulations;</li> <li>• The patient shall have the right to be informed of the parties who will be present at the spoke site and the hub site during the telehealth consult, and shall have the right to exclude anyone from either site;</li> <li>• The patient shall have the right to object to the videotaping of a telehealth consult.</li> </ul> <p><b>Source:</b> <i>KY Admin. Regs. Title, 907, 3:170.</i></p>	
Out of State Providers	<p>KY Medicaid program required to only allow providers licensed in Kentucky to receive reimbursement for telehealth services.</p> <p><b>Source:</b> <i>KY Statute Sec. 205.5591 (4).</i></p>	

The Cabinet is required to do the following:

- Develop policies and procedures to ensure the proper use and security for telehealth, including but not limited to confidentiality and data integrity, privacy and security, informed consent privileging and credentialing, reimbursement and technology;
- Promote access to health care provided via telehealth;
- Maintain a list of Medicaid providers who may deliver telehealth services of Medicaid recipients throughout the commonwealth;
- Require that specialty care be rendered by a health care provider who is recognized and actively participating in the Medicaid program; and
- Require that any required prior authorization requesting a referral or consultation for specialty care be processed by the patient’s primary care provider and that any specialist coordinates care with the patient’s primary care provider.

**Source:** *KY Statute Sec. 205.5591 (2).*

Providers must be approved through the Kentucky e-Health/Telehealth Network Board. Must be approved member of KY telehealth network.

**Source:** *KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011 & KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2018). \*Law going into effect Jul. 1, 2019 restricts Medicaid from requiring providers be members of a specific telehealth network. (KY SB 112 – 2018).*

For FQHCs and RHCs a “visit” is defined as occurring in-person or via telehealth.

**Source:** *KY 907 KAR 1:055 (37).*

The department reimburses a telehealth provider eligible for reimbursement for a telehealth consultation an amount equal to the amount paid for a comparable in-person service if the service was provided by a physician, and if the service was provided by an advanced practice registered nurse. This is not the case if the service was provided and billed through a FQHC, FQHC look-alike, RHC or primary care center; a hospital outpatient department, home health agency or nursing home. Reimbursement for a telehealth consultation provided by a practitioner who is employed by a provider or is an agent of a provider is a matter between the provider and practitioner. A managed care organization is not obligated to reimburse the same amount as the department reimburses.

**Source:** *KY Admin. Regs. Title, 907, 3:170, Sec. 5.*

**Recently Adopted Legislation (Effective Jul. 1, 2019)**

Telehealth means the delivery of health care-related services by a health care provider who is licensed in Kentucky to a patient or client through a face-to-face encounter with access to real-time interactive audio and video technology or store-and-forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the patient’s or client’s medical history prior to the telehealth encounter; Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and Shall be delivered over a secure communications connection that complies with HIPAA.

**Source:** *KY Revised Statute Sec. 304.17A-005.*

Requirements

**Effective until Jul. 1, 2019**

Kentucky law states that insurers may not deny coverage because it is “provided through telehealth and not provided through face-to-face consultation” therefore requiring reimbursement for live video. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.

**Source:** *KY Revised Statutes § 304.17A-138 (2012).*

**Recently Adopted Legislation (Effective Jul. 1, 2019)**

A health benefit plan shall reimburse for covered services provided to an insured person through telehealth. A health benefit plan shall not:

- Require a provider be physically present with a patient or client, unless the provider determines that it is necessary to perform those services in-person;
- Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in-person;
- Require demonstration that it is necessary to provide services to a patient or client through telehealth;
- Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in-person;
- Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or
- Require a provider to be part of a telehealth network.

A provider must be licensed in Kentucky to receive reimbursement for telehealth services.

**Source:** *KY Revised Statute Sec 304.17A-138.*

Parity

Service Parity

Payers shall not exclude services solely because the service is provided through telehealth.

**Source:** *KY Revised Statutes § 304.17A-138 (2012).*

Payment Parity

**Recently Adopted Legislation (Effective Jul. 1, 2019)**

Telehealth coverage and reimbursement shall be equivalent to the coverage for the same service provided in-person unless the telehealth provider and the health benefit plan contractually agree to a lower reimbursement rate for telehealth services.

**Source:** *KY Revised Statutes § 304.17A-138.*

**Dietitians or Nutritionists & Jail Standards (Department of Corrections)**

“Telehealth means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.”

**Source:** *KY Revised Statutes § 310.200 & KAR Title 501, Ch. 13, Sec. 010.*

The treating physician who delivers or facilitates the telehealth service shall obtain the informed consent of the patient before services are provided.

**Source:** *KY Revised Statutes § 311.5975 (2012).*

Patient consent must be obtained by:

- Physicians;
- Chiropractors;
- Nurses;
- Dentists;
- Dieticians or nutritionist;
- Pharmacist;
- Psychologists or psychological associate;
- Occupational therapists;
- Optometrist
- Physical therapists;
- Speech language pathologists or audiologists;
- Social workers;
- Marriage/family therapists;
- Respiratory care practitioners.

**Source:** *Cited in various sections of law. Originated from HB 177 (2000).*

Also see listing of Professional Board Regulation in Miscellaneous section for regulatory requirements for informed consent by profession.

The Board of Speech Language Pathology and Audiology requires their licensees to inform the client in writing, in an initial in-person meeting, about:

- The limitations of using technology in the provision of telepractice;
- Potential risks to confidentiality of information due to technology in the provision of telepractice;
- Potential risks of disruption in the use of telepractice;
- When and how the licensee will respond to routine electronic messages;
- In what circumstances the licensee will use alternative communications for emergency purposes;
- Who else may have access to client communications with the licensee;
- How communications can be directed to a specific licensee;
- How the licensee stores electronic communications from the client; and
- That the licensee may elect to discontinue the provision of services through telehealth.

**Source:** *KY 201 KAR 17:110.*

Prior to prescribing in response to any communication transmitted or received by computer or other electronic means, physicians must establish a proper physician-patient relationship. This includes:

- Verification that the person requesting medication is in fact who the patient claims to be;
- Establishment of a documented diagnosis through the use of accepted medical practices;
- Maintenance of a current medical record.

An electronic, online, or telephone evaluation by questionnaire are inadequate for the initial or any follow-up evaluation.

**Source:** *KY Revised Statutes § 311.597.*

A “good faith prior examination” (needed to establish a physician-patient relationship) can be done through telehealth.

**Source:** *KY Rev. Statute 218A.010.*

The Board of Speech Language Pathology and Audiology does not allow for the establishment of a practitioner-patient relationship via telehealth. They require an in-person meeting to occur first. A practitioner-patient relationship is required to issue a prescription.

**Source:** *KY 201 KAR 17:110.*

A physician performing or inducing an abortion shall be present in-person and in the same room with the patient. The use of telehealth shall not be allowed in the performance of an abortion.

**Source:** *KY Revised Statute Sec. 311.728.*

A provider must be licensed in Kentucky with the exception of persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a Kentucky-licensed physician.

**Source:** *KY Revised Statutes § 311.560.*

Member of Nurse Licensure Compact.

**Source:** *Nurse Licensure Compact. Current NLC States and Status. NCSBN. (Accessed Sept. 2018).*

Member of Physical Therapy Compact.

**Source:** *HB 227-2017. PT Compact. (Accessed Sept. 2018).*

#### Professional Board Telehealth-Specific Regulations

- Speech Language Pathology and Audiology (**Source:** *Title 201, Ch. 17, Sec. 110*)
- Board of Optometric Examiners (**Source:** *Title 201, Ch. 5, Sec. 055*)
- Physical Therapy (**Source:** *Title 201, Ch. 22, Sec. 160*)
- Dietitians and Nutritionists (**Source:** *Title 201, Ch. 33, Sec. 070*)
- Applied Behavior Analysis (**Source:** *Title 201, Ch. 43, Sec. 10*)
- Nursing (**Source:** *Title 201, Ch. 20, Sec. 520*)
- Board of Psychology (**Source:** *Title 201, Ch. 26, Sec. 310*)
- Occupational Therapy (**Source:** *Title 201, Ch. 28, Sec. 235*)

