

Kentucky

Medicaid Program: Kentucky Medicaid

Program Administrator: Kentucky Dept. for Medicaid Services

Regional Telehealth Resource Center: Mid-Atlantic Telehealth Resource Center www.matrc.org

Kentucky Policy At-a-Glance

MEDICAID REIMBURSEMENT			PRIVATE PAYER LAW		PROFESSIONAL REQUIREMENTS	
LIVE VIDEO	STORE-AND-FORWARD	REMOTE PATIENT MONITORING	LAW EXISTS	PAYMENT PARITY	LICENSURE COMPACTS	CONSENT REQUIREMENT
✓	✓	✗	✓	✗	IMLC, NLC, PTC	✓

Kentucky Detailed Policy

Medicaid Telehealth Reimbursement

Summary

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 contractually agree to a lower reimbursement rate for telehealth services, or the Department establishes a different reimbursement rate.

- KY Medicaid and any Medicaid managed care organization are 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. (Accessed Sept. 2020).

Definitions

Telehealth means the delivery of health care-related services by 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 or 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. (Accessed Sept. 2020).



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 1:055 (36). (Accessed Sept. 2020).

“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. (Accessed Sept. 2020).

Policy

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

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. (Accessed Sept. 2020).

The department must reimburse an eligible telehealth care provider for a telehealth service in an amount that is at least 100 percent of the amount for a comparable in-person service. A managed care plan may establish a different rate for telehealth reimbursement via contract.

Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2020).

Live Video

Eligible Services / Specialties

Telehealth service means any service that is provided by telehealth that is one of the following:

- Event
- Encounter
- Consultation, including a telehealth consultation
- Visit
- Store-and-forward transfer
- Referral
- Treatment

A service is not reimbursed if:

- It is not medically necessary;
- The equivalent service is not covered by the department if provided in a face-to-face setting; or
- The provider is not enrolled, participating, or in good standing with the Medicaid program, is on an excluded or terminated provider list, or is an excluded individual or entity, as listed on the US Office of Inspector General List.

Reimbursement is not made for services that are not:

- Medically necessary;
- Compliant with administrative regulation;
- Applicable to this administrative regulation; or
- Compliant with state or federal law.

Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2020).



Eligible Providers

A “telehealth care provider” is a Medicaid provider who is:

- Currently enrolled as a Medicaid provider;
- Participating as a Medicaid provider;
- Operating within the scope of the provider’s professional licensure; and
- Operating within the provider’s scope of practice.

Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2020).

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

- A psychiatrist;
- A licensed clinical social worker directly employed by a psychiatrist if the psychiatrist also interacts with the recipient during the encounter;
- A psychologist with a license and a doctorate degree in psychology directly employed by a psychiatrist if the psychiatrist also interacts with the recipient during the encounter;
- A licensed professional clinical counselor directly employed by a psychiatrist if the psychiatrist also interacts with the recipient during the encounter;
- A licensed marriage and family therapist directly employed by a psychiatrist if the psychiatrist also interacts with the recipient during the encounter;
- A physician;
- An APRN;
- Speech-language pathologist;
- Occupational therapist;
- Physical therapist; or
- Licensed dietitian or certified nutritionist;
- Registered nurse or dietitian

Eligible providers for services in a Community Mental Health Center:

- A psychiatrist;
- A physician;
- Psychologist with a license in accordance with KRS 319.010(6);
- A licensed marriage and family therapist;
- A licensed professional clinical counselor;
- A psychiatric medical resident;
- A psychiatric registered nurse;
- A licensed clinical social worker;
- An advanced practice registered nurse

Restrictions apply for all professionals.

ⓘ#). **Source:** KY State Plan Amendment. Attachment 3.1-B. Approved 3/9/2011. (Accessed Sept. 2020).

Eligible Sites

Place of service is anywhere the patient is located at the time a telehealth service is provided, and includes telehealth services provided to a patient at home or office, or a clinic, school or workplace.

Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2020).

Geographic Limits

No reference found.



Medicaid Telehealth Reimbursement

Live Video	Facility/Transmission Fee	No reference found.
Store-and-Forward		<p>KY Medicaid reimburses for telehealth consultations, the definition of which encompasses store-and-forward.</p> <p>Source: KY Revised Statutes 205.559. For definition, see: KY Revised Statute 205.510. (Accessed Sept. 2020).</p> <p>A store and forward service shall be permissible if the primary purpose of the asynchronous interaction involves high quality digital data transfer, such as digital image transfers.</p> <p>An asynchronous telehealth service shall be reimbursable if that service supports an upcoming synchronous telehealth or face-to-face visit to a provider that is providing one of the eligible specialties (see next section).</p> <p>The department shall evaluate available asynchronous telehealth services quarterly, and may clarify that certain asynchronous telehealth services meet the requirements to be included as permissible asynchronous telehealth, as appropriate and as funds are available, if those asynchronous telehealth services have an evidence base establishing the service's:</p> <ol style="list-style-type: none"> 1. Safety; and 2. Efficacy. <p>A provider shall not receive additional reimbursement for an asynchronous telehealth service if the service is an included or integral part of the billed office visit code or service code.</p> <p>Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2020).</p>
Store-and-Forward		<p>An asynchronous telehealth service within the following specialties or instances of care that meets the criteria established in this section shall be reimbursable as a store-and-forward telehealth service:</p> <ol style="list-style-type: none"> (a) Radiology; (b) Cardiology; (c) Oncology; (d) Obstetrics and gynecology; (e) Ophthalmology and optometry, including a retinal exam; (f) Dentistry; (g) Nephrology; (h) Infectious disease; (i) Dermatology; (j) Orthopedics; (k) Wound care consultation; (l) A store and forward telehealth service in which a clear digital image is integral and necessary to make a diagnosis or continue a course of treatment; (m) A speech language pathology service that involves the analysis of a digital image, video, or sound file, such as for a speech language pathology diagnosis or consultation; or (n) Any code or group of services included as an allowed asynchronous telehealth service. <p>Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Sept. 2020).</p>



Medicaid Telehealth Reimbursement

Store-and-Forward	Geographic Limits	No reference found.
	Transmission Fee	No reference found.
Remote Patient Monitoring	Policy	<p>Remote patient monitoring shall not be an eligible telehealth service within the fee-for-service Medicaid program unless that service is:</p> <ol style="list-style-type: none"> 1. Expanded pursuant to subsection (4) of this section; 2. Otherwise included as a part of a department approved value based payment arrangement; or 3. Otherwise included as a value added service or payment arrangement. <p>A managed care organization may reimburse for remote patient monitoring as a telehealth service if expanded pursuant to subsection (4) of this section or provided as a:</p> <ol style="list-style-type: none"> 1. Value based payment arrangement; or 2. Value added service or payment arrangement. <p>Source: KY Admin. Regs. Title, 907, 3:170. (Accessed Apr. 2020).</p>
	Conditions	No reference found.
	Provider Limitations	No reference found.
	Other Restrictions	No reference found.



Medicaid Telehealth Reimbursement

Email / Phone / Fax

No reimbursement for email.
No reimbursement for telephone.
No reimbursement for FAX.

Source: KY Revised Statutes § 205.559 (2)(b). (Accessed Sept. 2020).

Consent

The Cabinet for Health and Family Services must ensure informed consent among Medicaid providers using telehealth.

Source: KY Statute Sec. 205.5591 (2). (Accessed Sept. 2020).

Out of State Providers

KY Medicaid program required to only allow providers licensed in Kentucky to receive reimbursement for telehealth services.

Source: KY Statute Sec. 205.5591 (4). (Accessed Sept. 2019).

Miscellaneous

The Cabinet for Health and Family Services 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). (Accessed Sept. 2020).

The Cabinet for Health and Family Services cannot require a Medicaid provider to be a part of a telehealth network.

Source: : KY Statute Sec. 205.5591 (3). (Accessed Sept. 2020).

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

Source: KY 907 KAR 1:055 (37). (Accessed Sept. 2020)



Definitions	<p>Telehealth (a) 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; (b) Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and (c) Shall be delivered over a secure communications connection that complies with HIPAA.</p> <p>Source: KY Revised Statute Sec. 304.17A-005. (Accessed Sept. 2020).</p>	
	<p>A health benefit plan shall reimburse for covered services provided to an insured person through telehealth. A health benefit plan shall not:</p> <ul style="list-style-type: none"> • 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. <p>A provider must be licensed in Kentucky to receive reimbursement for telehealth services.</p> <p>Source: KY Revised Statute Sec. 304.17A-138. (Accessed Sept. 2020).</p>	
Requirements	Service Parity	<p>Payers are not required to provide coverage for telehealth services that are not medically necessary.</p> <p>Source: KY Revised Statutes § 304.17A-138. (Accessed Sept. 2020).</p>
	Payment Parity	<p>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.</p> <p>Payers are not required to reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.</p> <p>Source: KY Revised Statutes § 310.200 & KAR Title 501, Ch. 13, Sec. 010. (Accessed Sept 2020).</p>



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. (Accessed Sept 2020).

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. (Accessed Sept. 2020).

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 practitioner

Source: Cited in various sections of law. Originated from HB 177 (2000). (Accessed Sept. 2020).

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. (Accessed Sept. 2020).



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. (Accessed Sept. 2020).*

A “good faith prior examination” (needed to establish a physician-patient relationship) can be done through telehealth. Not applicable to hospice providers.

Source: *KY Revised Statute § 218A.010(18). (Accessed Sept. 2020).*

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.

Source: *KY 201 KAR 17:110. (Accessed Sept. 2020).*

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. (Accessed Sept. 2020).*

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. (Accessed Sept. 2020).*

Newly Passed Legislation

Member of Interstate Medical Licensure Compact.

Source: *KY Senate Bill 22 (2020 Session). (Accessed Sept. 2020).*

Member of Nurse Licensure Compact.

Source: *Nurse Licensure Compact. Current NLC States and Status. NCSBN. (Accessed Sept. 2020).*

Member of Physical Therapy Compact.

Source: *HB 227-2017. PT Compact. Compact Map. (Accessed Sept. 2020).*

There is hereby created a Division of Telehealth Services within the Office of Health Data and Analytics to be headed by a director appointed by the secretary pursuant to 12 KRS 12.050. The division shall provide oversight, guidance, and direction to Medicaid providers delivering care using telehealth. The division shall implement telehealth services and develop standards, guidance, resources, and education to help promote access to healthcare services in the Commonwealth.

Source: *Kentucky SB 123 (2020 Session). (Accessed Sept. 2020).*

Professional Board Telehealth-Specific Regulations

- Speech Language Pathology and Audiology (**Source:** Title 201, Ch. 17, Sec. 110). (Accessed Sept. 2020).
- Board of Optometric Examiners (**Source:** Title 201, Ch. 5, Sec. 055). (Accessed Sept. 2020).
- Board of Dentistry Examiners (**Source:** Title 201, Ch. 8, Sec. 590). (Accessed Sept. 2020).
- Physical Therapy (**Source:** Title 201, Ch. 22, Sec. 160). (Accessed Sept. 2020).
- Dieticians and Nutritionists (**Source:** Title 201, Ch. 33, Sec. 070). (Accessed Sept. 2020).
- Applied Behavior Analysis (**Source:** Title 201, Ch. 43, Sec. 100). (Accessed Sept. 2020).
- Nursing (**Source:** Title 201, Ch. 20, Sec. 520). (Accessed Sept. 2020).
- Board of Psychology (**Source:** Title 201, Ch. 26, Sec. 310). (Accessed Sept. 2020).
- Occupational Therapy (**Source:** Title 201, Ch. 28, Sec. 235). (Accessed Sept. 2020).
- Marriage and Family Therapists (**Source:** Title 201, Ch. 32, Sec. 110). (Accessed Sept. 2020).

