

Issue Brief: Recent temporary changes in coverage/reimbursement of telemedicine for Medicare, MHCP, and insurers subject to MN §62A.671

Note: This issue brief is provided for general information only and it not intended as a complete telemedicine billing and payment guide. Please consult the original source documents noted throughout this document and in the endnotes, as well as other reliable information sources and contacts at the relevant jurisdictions/payers for any questions or for clarifications.

Introduction and Overview

As part of the response to the current COVID-19 pandemic, numerous jurisdictions/payers have temporarily expanded access to, and coverage and reimbursement of, telemedicine/telehealth services. These actions have been undertaken to rapidly expand the availability of needed health care services while reducing in-person contacts between and among patients and health care providers.

The following table and accompanying list of resources briefly summarize the expanded access to and coverage of telehealth/telemedicine services by three jurisdictions/payers: the federal Medicare Program; Minnesota Health Care Programs (MHCP) administered by the Minnesota Department of Human Services (DHS) (e.g., Medical Assistance, MinnesotaCare); and Minnesota health insurance products and offerings subject to [Minnesota Statutes, section 62A.671](#).

Two of the most significant recent changes to telemedicine delivery and financing in response to the COVID-19 pandemic include expanded telemedicine coverage and reimbursement for:

- Delivering telemedicine services to patients in their place of residence. Prior to the COVID-19 response, patients typically had to travel to a clinic or other medical facility to be covered for a telemedicine consultation or service.
- The use of common applications on smartphones and personal computers such as Skype and FaceTime, and telephone calls, for delivering telemedicine services. Previously, telemedicine was typically covered and reimbursed only when particular types of secure two-way audio and video telecommunications technology were used.

In addition, the three jurisdictions/payer types discussed in this paper have recently modified several already existing requirements and policies for telemedicine coverage and reimbursements. For example, all three jurisdictions/payers have designated certain types of providers as “eligible providers” that may bill and be reimbursed for telemedicine services, provided that they have satisfied certain criteria. In some cases the designations/criteria for “eligible provider” have also sometimes been expanded. Similarly, while many types of services may be provided by telemedicine, the actual services covered and reimbursed by each

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jurisdiction/payer varies. The lists of telemedicine services eligible for coverage and reimbursement have also been expanded in some cases.

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1. Major overall changes to telemedicine coverage/reimbursement

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
<p>Medicare</p>	<p>The geographic availability of telemedicine services was limited, and patients were required to go to a health care facility for service.</p> <p>Generally, Medicare only paid for telehealth on a limited basis: “when the person receiving the service is in a designated rural area and when they leave their home and go to a clinic, hospital, or certain other types of medical facilities for the service.</p> <p>Technology options that could be used for telemedicine were typically limited.</p> <p>Technology options that could be used for telemedicine were typically limited to “real-time two-way, interactive audio and visual communications, including the application of secure video conferencing.”</p>	<p>Now: Nationwide telemedicine access is available, and patients can receive telemedicine services at their place of residence.</p> <p>For services starting March 6, 2020, and for the duration of the COVID-19 Public Health Emergency, Medicare will make payment for Medicare telehealth services furnished to beneficiaries in any health care facility (e.g., physician’s office, hospital, nursing home, or rural health clinic) and in their home. See March 2020 “MLN Booklet: Telehealth Services” and Medicare Telemedicine Health Care Provider Fact Sheet.</p> <p>Now: Technology options have expanded, especially to include “everyday communications technologies.”</p> <p>Eligible providers must still “use an interactive audio and video telecommunications system that permits real-time communication between the distant site [the provider’s location] and the patient.”</p> <p>However, according to a March 17 CMS telehealth FAQ, “telephones that have audio and video capabilities [may be used] for the furnishing of Medicare telehealth services during the COVID-19 [Public Health Emergency – PHE]. In addition, effective immediately, the HHS Office for Civil Rights (OCR) will exercise enforcement discretion and waive penalties for HIPAA violations against health care providers that serve patients in good faith through everyday communications technologies, such as FaceTime or Skype, during the COVID-19 nationwide public health emergency.”</p>

1. Major overall changes to telemedicine coverage/reimbursement

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
<p>MHCP (DHS) Generally fee for service, although some changes also apply to DHS managed care.</p>	<p>Patients’ options for receiving telehealth at their home were limited because a provider may have been required to be present, and using a telephone was not considered “telemedicine.”</p> <p>Per state statute, “a telephone conversation, e-mail, or facsimile transmission did not constitute telemedicine consultations or services.” (Minnesota Statutes, section 256B.0625, subdivision 3b, paragraph (d))</p>	<p>Now: DHS’s coverage and reimbursement of telemedicine has been expanded “to include telephone calls so providers who have a telemedicine agreement already in place with DHS can serve patients through telephone visits.”</p> <p>Note: A recently enacted state law (Minnesota Session Laws - 2020, Regular Session, Chapter 70--S.F. No. 4334, Article 3, Section 1) amended Minnesota Statutes, section 256B.0625, subd. 3b, paragraph (d). to expand the definition of “telemedicine” to include “the delivery of health care services or consultations with a patient at the patient’s residence.”</p>
<p>MS 62A.671</p>	<p>State law (MS 62A.671) did not address or was ambiguous about coverage and reimbursement of telemedicine services delivered to patients at home and via telephone.</p>	<p>Now: Telemedicine definition is clarified to include telemedicine services to patients in their homes, and via telephone.</p> <p>A recent state law (Minnesota Session Laws - 2020, Regular Session, Chapter 70--S.F. No. 4334, Article 3, Section 1) expanded the definition of telemedicine in MS 62A.671 to include “health care services or consultations delivered to a patient at the patient’s residence.”</p> <p>Another recent law (Minnesota Session Laws - 2020, Regular Session, Chapter 74--H.F. No. 4556, Section 15) expanded the definition of telemedicine to include “communication between a licensed health care provider and a patient that consists solely or primarily of a telephone conversation.”</p>

2. Additional requirements/guidelines and payment provisions

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
Medicare	<p>Standing requirements, policies, limits:</p> <ul style="list-style-type: none"> • Waivers required that patients be a provider’s “established patient.” • Medicare coinsurance and deductibles applied to telemedicine services. 	<p>Now: Several requirements, limits are waived.</p> <ul style="list-style-type: none"> • To the extent the 1135 waiver requires an established relationship, HHS will not conduct audits to ensure that such a prior relationship existed for claims submitted during this public health emergency. • The HHS Office of Inspector General (OIG) is providing flexibility for health care providers to reduce or waive cost-sharing for telehealth visits paid by federal health care programs. (See Medicare Provider Fact Sheet.) <p>Additional clarifications:</p> <p>[Medicare telehealth services furnished to patients in broader circumstances for the duration of the COVID-19 Public Health Emergency] “are considered the same as in-person visits and are paid at the same rate as regular, in-person visits.”</p>
MHCP (DHS)	<p>Member eligibility:</p> <ul style="list-style-type: none"> • Telemedicine coverage applied to MHCP members in fee-for-service programs. <p>Standing requirements, policies, limits:</p> <ul style="list-style-type: none"> • Telemedicine visits were capped at three per week for Medical Assistance and MinnesotaCare enrollees. 	<p>Now: Several requirements, limits waived:</p> <ul style="list-style-type: none"> • The cap of three telemedicine visits per week for Medical Assistance and MinnesotaCare enrollees has been temporarily removed. • A provider’s first visit with an enrollee in Medical Assistance or MinnesotaCare may be conducted on the phone.

2. Additional requirements/guidelines and payment provisions

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
	<ul style="list-style-type: none"> A provider’s first visit with Medical Assistance or MinnesotaCare enrollee needed to be conducted in-person. 	<p>DHS has also required its contracted managed care plans to follow the new policies above.</p> <p>See DHS News Stories “DHS expands telemedicine services for public health care program enrollees,” April 2, 2020.</p>
<p>MS 62A.671</p>	<p>MS 62A.671 included three types of requirements for parity with telemedicine and in-person services.</p> <p>Parity Requirements:</p> <ul style="list-style-type: none"> Parity of coverage for telemedicine and in-person services. Reimbursement of telemedicine on same basis as in-person services. Parity regarding copays and deductibles charged for telemedicine and in-person services. 	<p>Now: Expanded parity for reimbursement. Reimbursement cannot be limited or denied solely on basis of a service being delivered via telemedicine, nor limited or denied solely on the basis of the telemedicine mechanism or platform used.</p> <p>A recent state law (Minnesota Session Laws - 2020, Regular Session, Chapter 74--H.F. No. 4556, Section 15) expands previous reimbursement parity with amendments to Minn. Stat. 62A.671, as noted below:</p> <p>(a) A health carrier shall not deny or limit reimbursement based solely on a provider delivering consultations or health care services by telemedicine instead of in-person.</p> <p>(b) A health carrier shall not deny or limit reimbursement based solely on the mechanism or platform of telemedicine used by the provider to deliver consultations or health care services so long as the mechanism or platform used by the provider allows for the delivery of telemedicine services as defined in Minnesota Statutes, section 62A.671, subdivision 9.</p>

3. Billable/payable telemedicine services

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
<p>Medicare</p>	<p>See “List of services payable under the Medicare Physician Fee Schedule when furnished via telehealth.”</p> <p>Subject to various requirements and policies, Medicare covered and reimbursed for telemedicine services in the list referenced above. (The list consists of billable HCPCS codes.)</p>	<p>Now: Medicare’s “List of services payable under the Medicare Physician Fee Schedule when furnished via telehealth” has been expanded to include many new additional services as part of the COVID-19 response.</p>
<p>MHCP (DHS)</p>	<p>See examples of billable telemedicine services in the linked content noted below.</p> <p>The MHCP Provider Manual for “Physician and Professional Services – Telehealth” noted: “The CPT and HCPC codes that describe a telemedicine service are generally the same codes that describe an encounter when the health care provider and patient are at the same site” and it provided several example types of billable telemedicine services.</p>	<p>Now: See below in the “Telemedicine Providers” section regarding DHS waiver to add types of providers that are eligible for billing/reimbursement of telemedicine.</p>
<p>MS 62A.621</p>	<p>Carriers were required to offer telemedicine benefits in the same manner as other benefits.</p> <p>For health plans and insurers subject to MS 62A.672, telemedicine benefits had to be covered in the same manner as any other benefits covered under the policy, plan, or contract.</p>	<p>Now: No change</p>

4. Telemedicine providers

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
Medicare	<p>Medicare published a list of provider types permitted to provide Medicare telehealth services during the Public Health Emergency.</p> <p>According to the list, “qualified providers who were permitted to furnish Medicare telehealth services during the Public Health Emergency included:</p> <ul style="list-style-type: none"> • Physicians • Certain non-physician practitioners such as: <ul style="list-style-type: none"> ○ Nurse practitioners ○ Physician assistants ○ Certified nurse midwives • Other practitioners may also furnish services within their scope of practice and consistent with Medicare benefit rules that apply to all services: <ul style="list-style-type: none"> ○ Certified nurse anesthetists ○ Licensed clinical social workers ○ Clinical psychologists ○ Registered dietitians or nutrition professionals 	<p>Now: No change</p>

4. Telemedicine providers

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
MHCP (DHS)	<p>Provider types that were eligible to provide telemedicine services were listed in the MHCP Provider Manual.</p> <p>See the MHCP Provider Manual Physician and Professional Services – Telehealth for the list.</p>	<p>Now: DHS recently applied for a federal waiver to add more behavioral health providers to be eligible to provide telemedicine services.</p> <p>Per recent DHS announcements, DHS has applied for a federal waiver to add more behavioral health providers to its existing Provider Manual list of those eligible to provide telemedicine service. The waiver requests to temporarily expand the list of DHS-enrolled providers and their tribal equivalents who will be permitted to provide services through telephone and video visits, to include the following:</p> <ul style="list-style-type: none"> • Providers who are considered ‘licensed health care providers’ and providers supervised by licensed medical providers. • Mental health certified peer specialists and mental health certified family peer specialists. • Adult Rehabilitative Mental Health Services (ARMHS) providers. • Mental health behavioral aides in Children’s Therapeutic Support services (CTSS). • Alcohol and drug counselors, alcohol and drug counselor-temps, recovery peers, and student interns in licensed SUD programs. • Providers of SUD Rule 25 assessments, comprehensive assessments and group therapy.

4. Telemedicine providers

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
MS 62A.671	<p>The definition of telemedicine limited the references to “licensed health care provider” as the following:</p> <p>“Licensed health care provider” is defined in Minn. Stat. 62A.671, Subd. 6:</p> <ul style="list-style-type: none"> • Licensed under chapter 147, 147A, 148, 148B, 148E, 148F, 150A, or 153; and • A mental health professional as defined under section 245.462, subdivision 18, or 245.4871, subdivision 27; or • A vendor of medical care defined in section 256B.02, subdivision 7; and • Authorized within their respective scope of practice to provide the particular service with no supervision or under general supervision. 	<p>Now: Statutory definition of licensed health care provider was recently expanded to include additional licensed mental health practitioners and respiratory therapists.</p> <p>Recently enacted state law (Minnesota Session Laws - 2020, Regular Session, Chapter 74--H.F. No. 4556, Section 15) expanded the definition in Minn. Stat. 62A.671, Subd. 6 of licensed health care provider to include the following:</p> <p>(1) a mental health practitioner defined under Minnesota Statutes, section 245.462, subdivision 17, or 245.4871, subdivision 26, working under the supervision of a mental health professional; and</p> <p>(2) a respiratory therapist licensed under Minnesota Statutes, chapter 147C, and providing respiratory care services according to that chapter.</p>

5. Telemedicine billing codes

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
<p>Medicare</p>	<p>See sections on "Telehealth services billing and payment and telehealth originating sites billing and payment" in March 2020 "MLN Booklet: Telehealth Services."</p> <p>In addition to the above, Medicare Telehealth Frequently Asked Questions (FAQs) March 17, 2020 notes that: "Medicare telehealth services are generally billed as if the service had been furnished in-person. For Medicare telehealth services, the claim should reflect the designated Place of Service (POS) code 02- Telehealth, to indicate the billed service was furnished as a professional telehealth service from a distant site."</p> <p>The same FAQ also notes that "Services should only be reported as telehealth services when the individual physician or professional providing the telehealth service is not at the same location as the beneficiary."</p> <p>Finally, the FAQ describes three scenarios when modifiers are required on Medicare telehealth claims:</p> <ol style="list-style-type: none"> 1. In cases when a telehealth service is furnished via asynchronous (store and forward) technology as part of a federal telemedicine demonstration project in Alaska and Hawaii, the GQ modifier is required. 2. When a telehealth service is billed under CAH Method II, the GT modifier is required. 	<p>Now: No change</p>

5. Telemedicine billing codes

Jurisdiction/ Payer	Previously (Prior to COVID-19 response)	Now (Temporary, in response to COVID-19 Pandemic)
	3. When telehealth service is furnished for purposes of diagnosis and treatment of an acute stroke, the G0 modifier is required.	
MHCP (DHS)	<p>See the following sections in the MHCP Provider Manual for “Physician and Professional Services – Telehealth”:</p> <ul style="list-style-type: none"> • Billing Telemedicine Services • General • Two-Way Interactive Video Consultation in an Emergency Room (ER) <p>See also the following sections in the MHCP Provider Manual for “COVID-19” (especially under “Billing” for “new telemedicine providers on or after April 2, 2020):</p> <ul style="list-style-type: none"> • “Covered Services Changes” – “Telemedicine” • “Eligible providers – “Telemedicine” and “Billing (Billing Telemedicine)” 	Now: No change
MS 62A.671	No specific instructions provided in statute.	Now: No change

List of works cited above and additional resources

1. [Medicare telemedicine health care provider fact sheet, March 17, 2020.](https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet)
[https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet.](https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet)
2. [List of services payable under the Medicare Physician Fee Schedule when furnished via telehealth.](https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes) [https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes.](https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes)
3. [General Provider Telehealth and Telemedicine Tool Kit.](https://www.cms.gov/files/document/general-telemedicine-toolkit.pdf)
[https://www.cms.gov/files/document/general-telemedicine-toolkit.pdf.](https://www.cms.gov/files/document/general-telemedicine-toolkit.pdf) (Note: This document also includes a list of additional resources.)
4. [March 2020 “MLN Booklet: Telehealth Services.](https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/TelehealthSrvcsfctsht.pdf) [https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/TelehealthSrvcsfctsht.pdf.](https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/TelehealthSrvcsfctsht.pdf)
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6. [The MHCP Provider Manual for “Physician and Professional Services – Telehealth.”](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&revisionSelectionMethod=LatestReleased&dDocName=ID_008926#Telemedicine)
[https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&revisionSelectionMethod=LatestReleased&dDocName=ID_008926#Telemedicine.](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&revisionSelectionMethod=LatestReleased&dDocName=ID_008926#Telemedicine)
7. [DHS News Stories “DHS expands telemedicine services for public health care program enrollees.”](https://mn.gov/dhs/media/news/?id=1053-426542) April 2, 2020. [https://mn.gov/dhs/media/news/?id=1053-426542.](https://mn.gov/dhs/media/news/?id=1053-426542)
8. [DHS “Latest information about COVID-19 for providers of adult mental health services.”](https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/adult-mental-health/covid-19/)
[https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/adult-mental-health/covid-19/.](https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/adult-mental-health/covid-19/)
9. [Minnesota Statutes, section 62A.671.](https://www.revisor.mn.gov/statutes/cite/62A.671)
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