

Proposed Rule
LSA Document #14-194

DIGEST

Amends [405 IAC 1-4.2-2](#) and [405 IAC 1-4.2-3](#) and adds [405 IAC 1-4.2-6](#) to allow Medicaid reimbursement for and establish reimbursement methodology for home health agencies providing telehealth services. Adds [405 IAC 5-2-27](#) and [405 IAC 5-2-28](#) to add definitions for "telehealth services" and "telemedicine services". Amends [405 IAC 5-16-2](#) to allow Medicaid reimbursement for home health agencies providing telehealth services. Amends [405 IAC 5-16-3.1](#) to add requirements limiting Medicaid reimbursement for telehealth services. Amends [405 IAC 5-38-4](#) to limit Medicaid reimbursement for telemedicine services to certain providers. Repeals [405 IAC 5-38-1](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[405 IAC 1-4.2-2](#); [405 IAC 1-4.2-3](#); [405 IAC 1-4.2-6](#); [405 IAC 5-2-27](#); [405 IAC 5-2-28](#); [405 IAC 5-16-2](#); [405 IAC 5-16-3.1](#); [405 IAC 5-38-1](#); [405 IAC 5-38-4](#)

SECTION 1. [405 IAC 1-4.2-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 1-4.2-2](#) Definitions

Authority: [IC 12-15-5-11](#); [IC 12-15-21](#)

Affected: [IC 12-15-13-2](#)

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Center for Medicare & Medicaid Services Home Health Agency Market Basket" means the index of that name published quarterly by Global Insight.

(c) "Forms prescribed by the office" means:

- (1) forms provided by the office; or
- (2) substitute forms that have received prior written approval by the office.

(d) "Home health agency" or "HHA" means an agency licensed by the Indiana state department of health to provide home health care and enrolled as a Medicaid provider.

(e) "Home health care" means health care provided to Medicaid recipients who are medically confined to the home as certified by the attending or primary physician.

(f) "Hours worked" means the number of total hours paid for home health agency personnel, less the number of hours paid for vacation, holiday, and sick pay.

(g) "Office" means the office of Medicaid policy and planning.

(h) "Overhead cost rate" means the flat, statewide rate for all allowable costs not reimbursed through the staffing rate.

(i) "Prior authorization" has the meaning set forth in [405 IAC 5-2-20](#).

(j) "Semivariable cost" means that portion of the overhead cost that is reallocated from the overhead cost to the staffing cost. It consists of the following:

- (1) Direct supervision.
- (2) Routine medical supplies.
- (3) Transportation.

(4) Any other semivariable expenses that must be covered by Medicaid under federal law.

(k) "Staffing cost rate" means the service-specific wage and benefit rate paid per billable hour and based upon standard personnel-related costs that are a function of staff time spent in the performance of patient care activities.

(l) "Telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(Office of the Secretary of Family and Social Services; [405 IAC 1-4.2-2](#); filed Jul 18, 1996, 3:00 p.m.: 19 IR 3375; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1116; filed Oct 8, 1998, 12:23 p.m.: 22 IR 433; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 18, 2007, 11:38 a.m.: [20070718-IR-405070031FRA](#); readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#))

SECTION 2. [405 IAC 1-4.2-3](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 1-4.2-3](#) Home health care services; general information

Authority: [IC 12-15-5-11](#); [IC 12-15-21](#)

Affected: [IC 12-15-13-2](#)

Sec. 3. (a) Indiana Medicaid will reimburse HHA providers for the following home health services:

- (1) Skilled nursing performed by a registered nurse or licensed practical nurse.
- (2) Home health aide services.
- (3) Physical and occupational therapies.
- (4) Speech pathology services.
- (5) Renal dialysis.

(6) Telehealth services.

The services in this subsection must be performed in the home and provided within the limitations set forth in [405 IAC 5-16](#).

(b) Except as provided in subsection (c), all home health services require prior authorization by submitting a properly completed written request to the office or its contractor. Prior authorization procedures for home health care are set forth in [405 IAC 5-16-3](#) and [405 IAC 5-16-3.1](#).

(c) Prior authorization may be obtained by telephone under the circumstances and subject to the limitations set forth in [405 IAC 5-3-2](#)(b)(3). Services ordered in writing by a physician prior to the patient's discharge from a hospital within the limitations set forth in [405 IAC 5-3-12](#)(2) do not need prior authorization.

(Office of the Secretary of Family and Social Services; [405 IAC 1-4.2-3](#); filed Jul 18, 1996, 3:00 p.m.: 19 IR 3376; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 18, 2007, 11:38 a.m.: [20070718-IR-405070031FRA](#); readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#))

SECTION 3. [405 IAC 1-4.2-6](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 1-4.2-6](#) Telehealth services

Authority: [IC 12-15-5-11](#); [IC 12-15-21](#)

Affected: [IC 12-15-13-2](#); [IC 12-15-22-1](#)

Sec. 6. (a) Approved telehealth services are reimbursed separately from other home health agency services. The unit of reimbursement for telehealth services provided by a home health agency is one (1) calendar day.

(b) Reimbursement is available for telehealth services as follows:

- (1) One-time amount per client of fourteen dollars and forty-five cents (\$14.45) related to an initial face-to-face visit necessary to train the beneficiary to appropriately operate the telehealth equipment.
- (2) One (1) payment of nine dollars and eighty-four cents (\$9.84) for each day the telehealth equipment is used by a registered nurse (RN) to monitor and manage the client's care in accordance with the written order from a physician.

(c) Rates for telehealth services shall not be adjusted annually.

(d) All equipment and software cost associated with the telehealth services must be separately identified on the provider's annual cost report so that it may be removed from the calculation of overhead costs.

(Office of the Secretary of Family and Social Services; [405 IAC 1-4.2-6](#))

SECTION 4. [405 IAC 5-2-27](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-2-27](#) "Telehealth services" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 27. "Telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-27](#))

SECTION 5. [405 IAC 5-2-28](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-2-28](#) "Telemedicine services" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 28. "Telemedicine services" means a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location. The term does not include the use of the following:

- (1) A telephone transmitter for transtelephonic monitoring.
- (2) A telephone or any other means of communication for the consultation from one (1) provider to another provider.

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-28](#))

SECTION 6. [405 IAC 5-16-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-16-2](#) Home health agency services

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 2. Medicaid reimbursement is available to home health agencies for:

- (1) skilled nursing services provided by a registered nurse or licensed practical nurse;
- (2) home health aide services;
- (3) physical, occupational, and respiratory therapy services;
- (4) speech pathology services; and
- (5) renal dialysis; and
- (6) telehealth services;**

when such services are provided within the limitations listed in sections 3 and 3.1 of this rule.

(Office of the Secretary of Family and Social Services; [405 IAC 5-16-2](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3325; filed Aug 27, 1999, 10:15 a.m.: 23 IR 16; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#))

SECTION 7. [405 IAC 5-16-3.1](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-16-3.1](#) Home health agency services; limitations

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#); [IC 12-15-13-6](#)

Sec. 3.1. (a) In addition to the prior authorization requirements as outlined in section 3 of this rule, services provided by a registered nurse, licensed practical nurse, home health aide, or renal dialysis aide employed by a home health agency must be as follows:

- (1) Prescribed or ordered in writing by a physician.
- (2) Provided in accordance with a written plan of treatment developed by the attending physician.
- (3) Intermittent or part time, except for ventilator-dependent patients who have a developed plan of home health care.
- (4) Health-related nursing care. Homemaker, chore services, and sitter/companion service are not covered, except as specified under applicable Medicaid waiver programs.
- (5) Medically reasonable and necessary.
- (6) Less expensive than any alternate modes of care.
- (7) Provided only to recipients who are medically confined to the home as certified by the attending or primary physician.

(b) In addition to the prior authorization requirements as outlined in section 3 of this rule, physical therapy, occupational therapy, respiratory therapy, and speech pathology must be as follows:

- (1) Provided by an appropriately licensed, certified, or registered therapist employed or contracted by the agency.
- (2) Ordered or prescribed in writing by a physician.
- (3) Provided in accordance with a written plan of treatment developed cooperatively between the therapist and the attending physician.
- (4) Medically necessary. Educational activities, such as the remediation of learning disabilities, are not covered by Medicaid.
- (5) Provided in accordance with [405 IAC 5-22](#).
- (6) Provided only to recipients who are medically confined to the home as certified by the attending or primary physician.

(c) Nursing services, which do not meet the definition of emergency services, are covered without prior authorization when provided to a recipient for whom home health services have been currently authorized when the attending physician orders a one (1) time home visit due to a change in the patient's medical condition to prevent deterioration of the patient's medical condition, for example, reanchoring a foley catheter, obtaining a laboratory specimen, administering an injection, or assessing a reported change with signs and symptoms of potential for serious deterioration.

(d) In addition to the limitations as outlined in subsection (a) and section 3 of this rule, telehealth services provided by a home health agency are subject to the following requirements:

- (1) The recipient must be receiving home health services.**
- (2) To initially qualify for telehealth services, the recipient must have had two (2) or more of the following events within the previous twelve (12) months:**
 - (A) Emergency room visits.**
 - (B) Inpatient hospital stays related to at least one (1) of the qualifying conditions listed in subdivision (3).**
- (3) The recipient must have one (1) or more of the following conditions:**
 - (A) Chronic obstructive pulmonary disease.**
 - (B) Congestive heart failure.**
 - (C) Diabetes.**

Additional qualifying conditions may be added by the office upon satisfying the notice requirements set forth in [IC 12-15-13-6](#).

(4) In any telehealth encounter, a licensed registered nurse must perform the reading of transmitted health information provided to the recipient in accordance with the written order of the physician.

(Office of the Secretary of Family and Social Services; [405 IAC 5-16-3.1](#); filed Aug 27, 1999, 10:15 a.m.: 23 IR 18; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#))

SECTION 8. [405 IAC 5-38-4](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-38-4](#) Limitations

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 4. Telemedicine shall be limited by the following conditions:

(1) The patient must: ~~be:~~

- (A) **be** physically present at the spoke site; and
- (B) participate in the visit.

(2) The physician or practitioner who will be examining the patient from the hub site must determine if it is medically necessary for a medical professional to be at the spoke site. Separate reimbursement for a provider at the spoke site is payable only if that provider's presence is medically necessary. Adequate documentation must be maintained in the patient's medical record to support the need for the provider's presence at the spoke site during the visit. Such documentation is subject to postpayment review. If a health care provider's presence at the spoke site is medically necessary, billing of the appropriate evaluation and management code is permitted.

(3) Reimbursement for telemedicine services is available to the following providers regardless of the distance between the provider and recipient:

- (A) Federally qualified health centers.**
- (B) Rural health clinics.**
- (C) Community mental health centers.**
- (D) Critical access hospitals.**

~~(3)~~ **(4) Reimbursement for telemedicine services for all other eligible providers** is available only when the hub and spoke sites are greater than twenty (20) miles. ~~apart.~~ Adequate documentation must be maintained as service is subject to postpayment review.

~~(4)~~ **(5) Store and forward technology** is not reimbursable by Medicaid. The use of store and forward technology is permissible as defined under section 2(4) of this rule.

~~(5)~~ **(6) The following service or provider types may not be reimbursed for telemedicine:**

- (A) Ambulatory surgical centers.
- (B) Outpatient surgical services.
- (C) Home health agencies or services.
- (D) Radiological services.
- (E) Laboratory services.
- (F) Long term care facilities, including nursing facilities, intermediate care facilities, or community residential facilities for the developmentally disabled.
- (G) Anesthesia services or nurse anesthetist services.
- (H) Audiological services.
- (I) Chiropractic services.
- (J) Care coordination services.
- (K) DME, medical supplies, hearing aids, or oxygen.
- (L) Optical or optometric services.
- (M) Podiatric services.
- (N) Services billed by school corporations.
- (O) Physical or speech therapy services.
- (P) Transportation services.
- (Q) Services provided under a Medicaid waiver.

(Office of the Secretary of Family and Social Services; [405 IAC 5-38-4](#); filed Feb 28, 2007, 2:42 p.m.: [20070328-IR-405060029FRA](#); readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#); readopted filed Oct 28, 2013, 3:18 p.m.: [20131127-IR-405130241RFA](#))

SECTION 9. [405 IAC 5-38-1](#) IS REPEALED.

[Notice of Public Hearing](#)

Posted: 08/06/2014 by Legislative Services Agency
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