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TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

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## Final Rule

LSA Document #18-60(F)

## DIGEST

Amends [405 IAC 5-2-28](#) to align the definition of Medicaid telemedicine services to that of "telemedicine" in [IC 25-1-9.5-6](#). Amends [405 IAC 5-38-2](#), [405 IAC 5-38-3](#), and [405 IAC 5-38-4](#) to make definitions and terminology changes consistent with [IC 25-1-9.5](#), remove the 20 mile restriction between patient and provider in accordance with House Bill 1337 (2017), and revise the permissible telemedicine provider and service types. Effective 30 days after filing with the Publisher.

[405 IAC 5-2-28](#); [405 IAC 5-38-2](#); [405 IAC 5-38-3](#); [405 IAC 5-38-4](#)

SECTION 1. [405 IAC 5-2-28](#) IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: [IC 12-13-7-3](#); [IC 12-15-5-11](#); [IC 25-1-9.5-6](#)

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.

has the meaning set forth for "telemedicine" in [IC 25-1-9.5-6](#).

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-28](#); filed Sep 19, 2014, 3:22 p.m.: [20141015-IR-405140194FRA](#); filed Jun 1, 2018, 2:36 p.m.: [20180627-IR-405180060FRA](#))

SECTION 2. [405 IAC 5-38-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-38-2](#) Definitions

Authority: [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-21-3](#)

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

Sec. 2. The following definitions apply throughout this rule:

- (1) "Hub "Distant site" means the location of the physician or provider rendering consultation services: **a site at which a provider is located while providing health care services through telemedicine.**
- (2) "Interactive television" or "IATV" means the videoconferencing equipment at the hub distant and spoke **originating** site that allows real time, face-to-face consultation.
- (3) "Spoke "Originating site" means the location where the patient is physically located when services are provided: **any site at which a patient is located at the time health care services through telemedicine are provided to the individual.**
- (4) "Store and forward" means the electronic transmission of **a patient's** medical information **from an originating site to the provider at a distant site without the patient being present** for subsequent review by a health care provider at the hub distant site. Restrictions placed on store and forward reimbursement in this rule shall not disallow the permissible use of store and forward technology to facilitate reimbursable services.

(Office of the Secretary of Family and Social Services; [405 IAC 5-38-2](#); 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](#); filed Jun 1, 2018, 2:36 p.m.: [20180627-IR-405180060FRA](#))

SECTION 3. [405 IAC 5-38-3](#) IS AMENDED TO READ AS FOLLOWS:

#### **405 IAC 5-38-3** Description of service

**Authority:** [IC 12-15-1-10](#); [IC 12-15-21-2](#); [IC 12-15-21-3](#)

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

Sec. 3. (a) In any telemedicine encounter, there will be the following:

- (1) A ~~hub~~ **distant** site.
- (2) A ~~spoke~~ **An originating** site.
- (3) An attendant to connect the patient to the ~~specialist~~ **provider** at the ~~hub~~ **distant** site.
- (4) A computer or television monitor to allow the patient to have:
  - (A) real-time;
  - (B) interactive; and
  - (C) face-to-face;communication with the ~~hub-specialist/consultant~~ **distant provider** via IATV technology.

(b) Services may be rendered in an inpatient, outpatient, or office setting.

(Office of the Secretary of Family and Social Services; [405 IAC 5-38-3](#); 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](#); filed Jun 1, 2018, 2:36 p.m.: [20180627-IR-405180060FRA](#))

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

#### **405 IAC 5-38-4** Limitations

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

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

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

- (1) The patient must:
  - (A) be physically present at the ~~spoke~~ **originating** site; and
  - (B) participate in the visit.
- (2) The physician or practitioner who will be examining the patient from the ~~hub~~ **distant** site must determine if it is medically necessary for a medical professional to be at the ~~spoke~~ **originating** site. Separate reimbursement for a provider at the ~~spoke~~ **originating** 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~~ **originating** site during the visit. Such documentation is subject to postpayment review. If a health care provider's presence at the ~~spoke~~ **originating** site is medically necessary, billing of the appropriate evaluation and management code is permitted.
- (3) Reimbursement for **medically necessary** telemedicine services is available to the following providers regardless of the distance between the provider and member:
  - (A) Federally qualified health centers.
  - (B) Rural health clinics.
  - (C) Community mental health centers.
  - (D) Critical access hospitals.
  - (E) **A provider, as determined by the office to be eligible, providing a covered telemedicine service.**
- ~~(4) Reimbursement for telemedicine services for all other eligible providers is available only when the distance between the hub and spoke sites are greater than twenty (20) miles. Adequate documentation must be maintained as service is subject to postpayment review.~~
- ~~(5) (4)~~ 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.
- ~~(6) (5)~~ 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 **with the member not present.**
- (K) ~~DME, medical supplies, hearing aids, or oxygen.~~ **Durable medical equipment (DME) and home medical equipment (HME) providers.**
- (L) Optical or optometric services.
- (M) Podiatric services.
- ~~(N) Services billed by school corporations.~~
- ~~(O) (N) Physical or speech therapy services.~~
- ~~(P) (O) Transportation services.~~
- ~~(Q) (P) Services provided under a Medicaid home and community-based waiver.~~
- (Q) Provider to provider consultations.**

(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](#); filed Sep 19, 2014, 3:22 p.m.: [20141015-IR-405140194FRA](#); filed Aug 1, 2016, 3:44 p.m.: [20160831-IR-405150418FRA](#); errata filed Nov 1, 2016, 9:36 a.m.: [20161109-IR-405160493ACA](#); filed Jun 1, 2018, 2:36 p.m.: [20180627-IR-405180060FRA](#))

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Small Business Regulatory Coordinator: Michael Cook, Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning, Indiana Government Center South, 402 West Washington Street, Room W374, Indianapolis, IN 46204, (317) 232-7050, [michael.cook@fssa.in.gov](mailto:michael.cook@fssa.in.gov)

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