

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/3/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

10 09 49 01-.07, .11 and .12

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: May 20, 2014.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Sarah W. Rice, Assistant Attorney General, (telephone #410-767-1879) on July 28, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Telephone No.

410-767-6500

Date

August 18, 2014

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 09 MEDICAL CARE PROGRAMS

10.09.49 Telemedicine Services

Authority: Health-General Article, §2-104(b), Annotated Code of Maryland; Ch. 280,
 Acts of 2013

Notice of Proposed Action

[]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01—.07, .11 and .12 under COMAR 10.09.49 Telemedicine Services.

Statement of Purpose

The purpose of this action is to repeal the geographic limitations on healthcare services delivered via telemedicine. This amendment is in accordance with Chapters 141 and 426, Acts of 2014.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The Department will reimburse eligible physicians and hospitals for providing health services via telemedicine. For the expansion of telemedicine services, the increase in total Medicaid expenditures is predicted to be approximately \$12,660 (Total funds). Costs may be offset by savings in the outpatient category from fewer ER and follow-up visits to specialists.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E-)	\$12,660
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude

D. On regulated industries or trade groups: (+) \$12,660

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The Department analyzed the number of telemedicine claims processed by CareFirst Blue Cross Blue Shield in CY11. CareFirst is the largest commercial payer in the State of Maryland and the Department assumes that the adoption rate of telemedicine by Medicaid providers will be similar to what CareFirst has experienced.

In CY2011, CareFirst had a total of 2.1 million members and processed a total of 211 telemedicine claims. The current number of Medicaid participants is approximately 1.2 million and Medicaid participants typically utilize acute care services at a rate that is 50-60 percent higher than enrollees in a commercial plan. Given these considerations, the Department would expect that expanding telemedicine services would result in a total of approximately 169 telemedicine claims annually. Assuming that services delivered by telemedicine would incur an additional \$23.72 in provider fees, the total cost of expanding telemedicine statewide would be approximately \$25,320, subject to a federal reimbursement rate of 50%. The impact on the general fund would be \$12,660.

D. See A.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

As stated above, the Department will reimburse eligible physicians and hospitals for providing health services via telemedicine.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows: Telemedicine services may improve access to health services for individuals with disabilities. Some individual with disabilities may not need to travel long distances to see specialists if their providers participate in the telemedicine program(s).

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through November 3, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2015
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
50% General funds and 50% Federal funds
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- G. Small Business Worksheet:

Attached Document:

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.49 Telemedicine Services

Authority: Health-General Article, §2-104(b), Annotated Code of Maryland; Ch. 280, Acts of 2013

10.09.49.01 (5/20/14)

.01 Scope.

A. This chapter applies to [two] telemedicine programs [— the Rural Access Telemedicine Program and the Cardiovascular Disease and Stroke Telemedicine Program] *reimbursed by the Maryland Medicaid Program effective October 1, 2014.*

B. (text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "*Campus*" means the physical area immediately adjacent to the provider's main buildings, other areas, and structures that are not strictly contiguous to the main buildings but are located on the same property, and any other areas determined on an individual case basis by the Department to be part of the provider's campus.

[(1)](2)—[(2)](3) (text unchanged)

[(3) "Designated rural geographic areas" means:

- (a) Allegany County;
- (b) Calvert County;
- (c) Caroline County;
- (d) Cecil County;
- (e) Charles County;
- (f) Carroll County;
- (g) Dorchester County;
- (h) Frederick County
- (i) Garrett County;
- (j) Harford County;
- (k) Kent County;
- (l) Queen Anne's County;
- (m) Somerset County;
- (n) St. Mary's County;
- (o) Talbot County;
- (p) Washington County;
- (q) Wicomico County; and
- (r) Worcester County.]

(4)—(6) (text unchanged)

(7) "Originating site" means the location of an eligible Medicaid participant at the time the service being furnished via technology-assisted communication occurs, which is a site approved by the Department to provide telemedicine services [and which:

(a) For the Rural Access Telemedicine Program, is located within a designated rural geographic area, in which an eligible participant is located at the time the telemedicine service is delivered; or

(b) For the Cardiovascular Disease and Stroke Telemedicine Program, is located in an emergency room when an appropriate specialist is not available].

(8) "Originating site [facility] *transmission* fee" means the amount the Department reimburses an approved originating site for the telemedicine transmission.

(9) "Professional fee" means the Departmental fee schedule for clinical services which is incorporated by reference in COMAR [10.09.07.02] 10.09.02.07.

(10)—(14) (text unchanged)

.03 Approval.

The Department shall grant approval to *allow* originating and consulting *site* providers to receive State and federal funds for providing telemedicine services if the telemedicine provider meets the requirements of this chapter.

.04 Service Model.

A.—C. (text unchanged)

D. Fee-for-service reimbursement for professional services shall be in accordance with the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR [10.09.07.02] 10.09.02.07.

.05 Covered Services.

[A. Rural Access Telemedicine Program.

(1). Through the Rural Access Telemedicine Program, approved providers located in designated rural geographic areas may provide medically necessary services to Medical Assistance participants through technology-assisted communication.]

[(2)]Under the [Rural Access] Telemedicine Program, the Department shall cover:

[(a)] A. (text unchanged)

[(b)] B. Medically necessary consultation services covered by the Maryland Medical Assistance Program rendered by an approved consulting provider that can be delivered using technology-assisted communication; [and]

[(c)] C. An approved originating site for the originating site [facility] *transmission* fee; and

[B. Cardiovascular Disease and Stroke Telemedicine Program.

(1) Through the Cardiovascular Disease and Stroke Telemedicine Program, approved providers may render services to Medical Assistance participants in emergency departments where no specialist is available to provide timely consultation and diagnostic evaluation for cardiovascular disease or stroke care.

(2) Under the Cardiovascular Disease and Stroke Telemedicine Program, the Department shall cover:

(a) Medically necessary services covered by the Maryland Medical Assistance Program rendered by an approved originating site provider in a hospital emergency department setting for the treatment of cardiovascular disease or stroke that are distinct from the telemedicine services provided by a consulting provider;]

[(b)] D. The professional fee for an approved consulting provider for initial telemedicine consultation for services furnished before, during, and after communicating with the Medical Assistance participant presenting in a hospital emergency department setting [with cardiovascular disease or stroke] if:

[(i)] (1)—[(ii)] (2) (text unchanged)

[(c)] An approved originating site for the originating site facility fee for telemedicine services provided to a Medical Assistance participant for the treatment of cardiovascular disease or stroke if the telemedicine services rendered are:

(i) Medically necessary;

(ii) Provided in a hospital emergency department setting in the State; and

(iii) Provided when there are no specialists available at the originating site to provide a consultation and review diagnostic tests integral to the consultation in a timely manner.]

.06 Participant Eligibility.

A participant is eligible to receive telemedicine services if the individual:

A. (text unchanged)

B. [For the Rural Access Telemedicine Program, consents] *Consents* to telemedicine services unless there is an emergency that prevents obtaining consent, which the originating site shall document in the participant's medical record; and

C. (text unchanged)

.07 Provider Conditions for Participation.

A. To participate in the Program, the provider shall:

(1) Be enrolled as a Medical Assistance Program provider;

(2)—(5) (text unchanged)

B. [Rural Access Telemedicine Program] Approved Originating Site. The following sites may be approved as an originating site for [Rural Access] Telemedicine Program service delivery:

(1)—(6) (text unchanged)

C. [Rural Access Telemedicine Program] Approved Distant Site. The following provider types who practice within the State, the District of Columbia, or a contiguous state may be approved as consulting providers for [Rural Access] Telemedicine Program consultation services:

(1)—(3) (text unchanged)

[D. Cardiovascular Disease and Stroke Telemedicine Program Approved Originating Site. A Maryland hospital may be approved as an originating site for the Cardiovascular Disease and Stroke Telemedicine Program if no specialist is available to provide timely consultation and diagnostic evaluation for cardiovascular disease or stroke care.

E. Cardiovascular Disease and Stroke Telemedicine Program Approved Distant Site. Consulting specialty providers who practice within the State, the District of Columbia, or a contiguous state may be approved as consulting providers for Cardiovascular Disease and Stroke Telemedicine Program consultation services.]

.11 Limitations.

A.—H. (text unchanged)

I. The Department may not reimburse for home health monitoring services.

J. The Department may not reimburse for telemedicine services delivered by an originating and distant site provider located in different facilities in the same hospital campus.

.12 Reimbursement.

A. (text unchanged)

(1) Originating site [facility] *transmission* fee; and

(2) (text unchanged)

B. Originating Site [Facility] *Transmission* Fee.

(1) The originating site facility fee is set:

(a) In the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR [10.09.07.02] *10.09.02.07*; or

(b) (text unchanged)

(2)—(3) (text unchanged)

C. (text unchanged)

JOSHUA M. SHARFSTEIN, M.D.

Secretary of Health and Mental Hygiene

