

# Issue Brief

STATE ISSUE BRIEF • FEBRUARY 2018

Should you have questions regarding the provision of, or reimbursement for, telehealth services to MO HealthNet participants, please contact Brian Kinkade or Jane Drummond at 573/893-3700.

## *Regulatory Guidance:* MO HealthNet Rescinds Telehealth Rules – Maintaining Compliance

On Feb. 2, 2018, the MO HealthNet Division issued a [Provider Bulletin](#) advising that the agency was rescinding its telemedicine regulation and instructing parties to follow Missouri Revised Statutes 191.1145 and 191.1146 when providing telehealth services. This issue brief is intended to provide guidance on the laws governing telehealth services to MO HealthNet participants.

While the provisions of Chapter 191 of the Missouri Revised Statutes generally govern the administration of telehealth, the bulletin does not refer to Missouri Revised Statutes 208.670 through 208.677, which specifically apply to telehealth services administered to Medicaid participants. There are some key differences between the provisions of Chapter 191 and Chapter 208 that may cause confusion for providers. This issue brief addresses those differences and issues about which providers should be aware.

Section 191.1145 authorizes any licensed health care provider to provide telehealth services, so long as the care is within the provider's scope of practice. However, Section 208.675 allows only the following providers to administer telehealth to MO HealthNet participants:

- physicians, assistant physicians and physician assistants
- advanced practice registered nurses
- dentists, oral surgeons, and dental hygienists under the supervision of a currently registered and licensed dentist
- psychologists and provisional licensees
- pharmacists
- speech, occupational, or physical therapists
- clinical social workers
- podiatrists
- optometrists
- licensed professional counselors
- eligible health care providers enumerated above who are practicing in a rural health clinic, federally qualified health center or community mental health center

**Therefore, to obtain reimbursement for services to MO HealthNet participants, hospitals should be sure that the services are provided by an eligible practitioner listed above.**

*continued*

4712 Country Club Drive  
Jefferson City, MO 65109

P.O. Box 60  
Jefferson City, MO 65102

573/893-3700  
[www.mhanet.com](http://www.mhanet.com)



The Medicaid statutes also specify the sites from which telehealth services may originate when treating MO HealthNet participants. Hospitals, including critical access hospitals, are authorized originating sites.

Regardless of payor, the standard of care for telehealth services is the same as if the individual were treated in person, and the treatment must be within the provider's scope of practice. *Mo. Rev. Stat. § 191.1145.2*. Similarly, practitioners treating any patient in the state via telemedicine must be licensed in Missouri. *Mo. Rev. Stat. § 191.1145.3*. Exceptions to this requirement include the following.

- Informal consultation by a provider licensed in another state, outside the context of a contractual relationship, and on an infrequent basis without an expectation of compensation.
- In the event of an emergency or disaster, with no compensation to the provider.
- Episodic consultations by a provider licensed and located in another state who provides consultation services on request to a Missouri-licensed physician.

*Mo. Rev. Stat. § 191.1145.4*.

Section 191.1146, RSMo requires that a physician-patient relationship be established with the person receiving telemedicine services. This may be done through the following.

- An in-person assessment and physical examination.
- Consultation with another physician or the physician's delegate, who has an established relationship with the patient and an agreement with the physician to participate in the patient's care.
- A telemedicine encounter, if the standard of care does not require an in-person encounter, so long as the encounter is conducted in accordance with evidence-based clinical standards and telemedicine practice guidelines addressing both the clinical and technological aspects of telemedicine.

The statute further requires that the technology used be sufficient to make an informed diagnosis in the same manner as if the medical interview and physical exam had been done in person. Before providing treatment or medications, the distant site provider must interview the patient, obtain relevant medical history and perform an examination necessary for diagnosis and treatment. A patient questionnaire cannot be substituted for medical interview and examination by the provider. *Mo. Rev. Stat. § 191.1146.2*. Consent must be obtained from a MO HealthNet patient before engaging in any telemedicine service. *Mo. Rev. Stat. § 208.670*.

Special provisions apply when using asynchronous store-and-forward technology to treat MO HealthNet participants. Asynchronous store-and-forward means the digital transfer of a patient's clinical information for assessment by a consulting provider without requiring the simultaneous presence of the patient and his or her treating provider. *Mo. Rev. Stat. § 208.671.1(1)*. The total payment to the treating and consulting providers may not exceed the payment for a face-to-face consultation of the same level. *Mo. Rev. Stat. § 208.671.3*.

Reimbursement for asynchronous store-and-forward technology under the MO HealthNet program is limited to orthopedics, dermatology, ophthalmology and optometry (in cases of diabetic retinopathy), burn and wound care, dental services requiring a diagnosis and maternal-fetal medicine ultrasounds. *Mo. Rev. Stat. § 208.670.2*. A

*continued*

consulting provider using asynchronous store-and-forward technology to treat the patient may not receive Medicaid funds if he or she declines to render an opinion with respect to the patient. *Mo. Rev. Stat. § 208.671.2(7)*.

Subject to the restrictions involving the use of store-and-forward technology, reimbursement for telemedicine under the MO HealthNet program is typically the same manner as for in-person care. The agency's recent Provider Bulletin directs providers to use procedure code Q3014 to bill for use of the originating site. The distant site provider should use the CPT code associated with the service, along with the "GT" modifier to submit claims. The distant site provider will be reimbursed according to the current fee schedule amount for the service provided.

While the statutes are silent as to whether the originating and distant sites must differ, MO HealthNet has taken the position that reimbursement for an originating site fee and distant site services will not be made for services that occur in the same building. However, the originating site fee and distant site services can be billed by the same provider for the same date of service, so long as the locations differ.

The Missouri General Assembly is contemplating legislation that would make numerous changes to the telehealth statutes. MHA staff will continue to engage with state legislators as they contemplate changes in the law and provide additional guidance to members on any changes.