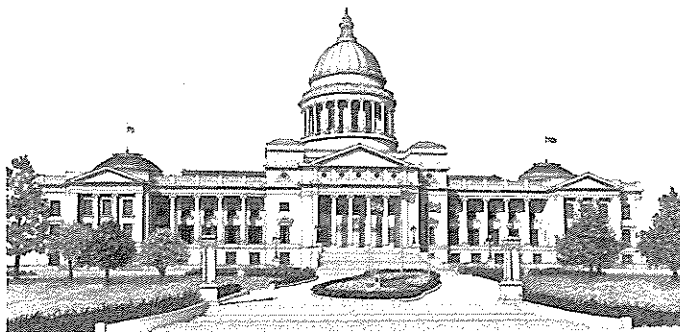


ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Medical Services

Contact Mac E. Golden E-mail Mac.E.Golden@dhs.arkansas.gov Phone 501-563-7634

Statutory Authority for Promulgating Rules Arkansas Code Annotated §§ 20-10-203, 20-10-701, 20-38-103, 20-38-112, 20-48-103, 20-76-201, 20-76-401, 20-77-107, 20-80-306 to -311, 25-10-128, and 25-10-129.

Rule Title: DHS Telemedicine COVID-19 Response Manual

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other 07/01/2021
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

04/11/2021

05/10/2021

06/18/2021

07/01/2021

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Chloe Crater chloe.crater@dhs.arkansas.gov

06/18/2021

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act (ACA 25-15-201 et. seq.)

S. Elizabeth Pitman
Signature

501-244-3944

Elizabeth.Pitman@dhs.arkansas.gov

Phone Number

E-mail Address

Director, Division of Medical Services

Title

06/18/2021

Date

DHS Telemedicine COVID-19 Response Manual

July 1, 2021

DHS TELEMEDICINE COVID-19 RESPONSE CONTENTS

200.000 OVERVIEW

- 201.000 Authority
- 202.000 Purpose
- 203.000 Appeals
- 204.000 Severability

- 241.000 First Connections Developmental Therapy Telemedicine
- 244.000 Telemedicine for Occupational, Physical, and Speech Therapist and Assistants
- 245.000 Telemedicine for Applied Behavioral Analysis (ABA) by a BCBA
- 246.000 Telemedicine for Autism Waiver

- 260.102 Telemedicine Originating site requirements for advanced practice registered nurses
- 260.103 Telemedicine originating site requirements to allow services to a beneficiary in his or her home through date of service December 31, 2021.
- 265.100 Behavioral Health Telemedicine Services

200.000 OVERVIEW

201.000 Authority

The following rules are duly adopted and promulgated by the Arkansas Department of Human Services (DHS) under the authority of Arkansas Code Annotated §§ 20-10-203, 20-10-701, 20-38-103, 20-38-112, 20-48-103, 20-76-201, 20-76-401, 20-77-107, , 25-10-126, and 25-10-129.

202.000 Purpose

In response to the COVID-19 pandemic, DHS identified programs and services that required additional flexibility or changes to adapt to ensuring the health and safety of our clients. This manual details them so that DHS may render uninterrupted assistance and services to our clients.

203.000 Appeals

Appeal requests for COVID-19 response policies must adhere to the policy set forth in the Medicaid Provider Manual Section 160.000 Administrative Reconsideration and Appeals which can be accessed at <https://medicaid.mmis.arkansas.gov/Provider/Docs/all.aspx>.

204.000 Severability

Each section of this manual is severable from all others. If any section of this manual is held to be invalid, illegal, or unenforceable, such determination shall not affect the validity of other sections in this manual and all such other sections shall remain in full force and effect. In such an event, all other sections shall be construed and enforced as if this section had not been included therein.

241.00 First Connections Developmental Therapy Telemedicine

During a public health emergency, the Office of Special Education Programs (OSEP) requires that eligible children with disabilities have continuity of Individual Family Service Plan (IFSP) services provided through alternative means such as teletherapy or other video conferencing. Currently, Medicaid's telehealth policies exclude Developmental Therapists from providing teletherapy services. First Connections needs a way to continue to provide developmental and consultative services to parents/guardians to support program-eligible children in developing and learning functional skills.

This method will be available until December 31, 2021.

- Modification to use teletherapy to provide developmental therapy/consultative services (DT) to parents/guardians of eligible children 0-3 with a current IFSP to help parents help their child develop and learn as required by IDEA, Part C.
- DT is provided to parents/guardians of eligible children through accessible real-time technology which includes a video component with originating site requirements removed so that families can receive services from their home (maximum 60 minutes per week).
- DT through teletherapy must be billed to the First Connections grant. T1027 Developmental Therapy is prior authorized at \$18.00 per unit and T1027 modifier UB Developmental Therapy Assistant is prior authorized at \$15.00 per unit.

244.00 Telemedicine for Occupational, Physical, and Speech Therapists and Assistants

In response to COVID-19 allowable telemedicine services include services provided by licensed occupational, physical, or speech therapists or assistants. These services are available to established patients only.

Parental Consultation is a COVID-19 response service that allows a therapist assistant or therapist to instruct a parent or caregiver on how to use therapeutic equipment or techniques with their child to continue working on therapy goals and objectives. To bill for this service, the therapy assistant or therapist must document that the parent or caregiver was present with a beneficiary. The service must be provided using the appropriate real-time technology that includes both a video and audio component. The originating service requirement is relaxed so that the parent may receive this service from their home.

The service may be provided in 15-minute sessions with a maximum of 8 sessions per month. All services must be prior authorized by eQHealth Solutions. This service and individual therapy services through telemedicine will be available until December 31, 2021.

Individual Therapy Services provided by a licensed Physical Therapist, Occupational Therapist, or Speech Therapist or Assistant allows for continued therapy services for established patients during this time of social distancing.

The technology used must be real-time and include a video and audio component. The sessions are limited to thirty minutes a piece, with a maximum of three (3) sessions per week.

The following services cannot be completed via telemedicine:

- A. Evaluations and re-evaluations. However, if an annual evaluation is due during this time, the deadline may be extended until the patient is able to come into the office.
- B. Group Therapy Services.

245.00 Telemedicine for Applied Behavioral Analysis (ABA) for BCBA

In response to COVID-19 allowable telemedicine services includes Applied Behavioral Analysis (ABA) services to established patients only. To allow for continued therapy services for established patients during this time of social distancing, DMS/DDS is lifting the requirement that the beneficiary be located at a healthcare facility (originating site) to receive telemedicine services for the following services only:

- Adaptive behavior treatment provided by a Board-Certified Behavior Analyst (BCBA) or Board-Certified Behavior Analyst-Doctoral (BCBA-D)
- Family adaptive behavior treatment guidance, by a BCBA or BCBA-D

This service through telemedicine will be available until December 31, 2021.

Billing Instructions

All units are prior authorized. To bill for this service, the BCBA must document that the parent or caregiver was present with a beneficiary. The service may be provided at the same rate as the regular "face-to-face" rate. All services must be prior authorized by eQHealth Solutions. When billing for these services you must include all modifiers on the claim. All Therapy claims submitted for Telemedicine must include the GT modifier and (02) as the place of service.

BCBA is a licensed clinician that may perform telemedicine under the scope of their license. The sessions are limited to 30 minutes, with a maximum of three (3) sessions per week.

97155 EP

Adaptive behavior treatment provided by a BCBA or BCBA-D. Individual adaptive behavior treatment by BCBA, face-to-face with the patient and may also include caregivers. This includes implementation and modification of treatment the plan. This may also include simultaneous direction of technician.

97156 EP

Family adaptive behavior treatment, provided by a BCBA, face-to-face with parents and/or caregivers. Family sessions should address education of the parents or caregivers on the patient's plan of care, specific objectives, treatment approaches, etc. as they relate to the individual client's ASD symptoms and how to address them in the patient's natural environment.

The following services cannot be completed via telemedicine:

- A. Evaluations and re-evaluations. However, if an annual evaluation is due during this time, the deadline may be extended until the patient is able to come into the office.
- B. Group ABA Services.

246.000 Telemedicine Autism Waiver

In response to COVID-19 the allowable telemedicine service available under the Autism Waiver is 2024 U3 Individual Assessment/Treatment Plan/Development/Monitoring.

These services through telemedicine will be available until December 31, 2021.

260.102 Telemedicine Originating Site Requirements for Advanced Practice Registered Nurses

Section 105.190, regarding the originating site requirements for services provided to established patients by advanced practice registered nurses is suspended through date of service December 31, 2021.

DMS issues the following guidance and policy related to Nurse Practitioners (NP) use of telemedicine.

Professional Relationship Requirements

A provider must have an established relationship with a patient before utilizing telemedicine to treat a patient.

Nurse Practitioners may provide telemedicine services using the following guidelines to establish professional relationship with new patients until the State Public Health Emergency is rescinded:

- The NP providing telehealth services must have access to a patient's personal health record maintained by a physician.
- The telemedicine service may be provided by any technology deemed appropriate, including telephone, but it must be provided in real time (cannot be delayed communication).
- NP may use telemedicine to diagnose, treat, and, when clinically appropriate, prescribe a non-controlled drug to the patient as allowed under their scope of practice.

To bill for these services, use the appropriate billing procedure code with the "GT" modifier and Place of Service (POS) "02".

Once the State Public Health Emergency has ended, Section 105.190 of the Medicaid Provider Manual is reinstated according to statutory authority.

Originating Site Requirements

DMS is waiving the originating site requirement for evaluation and management (E&M) services provided to established patients by NPs. This will allow the NP to utilize telemedicine technology, including telephone, when appropriate, to diagnose, provide treatment and prescribe to patients as allowed by their scope of practice, while the patient remains in their home. To use telemedicine technology to provide services without an originating site, the following requirements must be met:

- The technology must be real-time (cannot be delayed communications).

- The NP must have access to the patient's medical records.

To bill for these services, please use the appropriate billing codes with the "GT" and Place of Service "02" modifier.

Virtual Patient Check-Ins

To prevent unnecessary travel and office visits, Medicaid is opening the virtual check-in CPT (code G2012) described below through date of service December 31, 2021.

To use the Code G2012 to provide virtual check-in services, meet the following requirements:

- Can be any real-time audio (telephone), or "2-way audio interactions that are enhanced with video or other kinds of data transmission."
- For established patients only.
- To be used for:
 - Any chronic patient who needs to be assessed as to whether an office visit is needed.
 - Patients being treated for opioid and other substance-use disorders.
- Nurse or other staff member cannot provide this service. It must be a clinician who can bill evaluation and management (E&M) services.
- If an E&M service is provided within the defined time frames, then the telehealth visit is bundled with that E&M service. It would be considered pre- or post-visit time and not separately billable.
- No geographic location restrictions for the patient.
- Communication must be HIPAA compliant.

Code	Short Description	Fee
G2012	Brief communication technology-based service, e.g. virtual check-in, by a physician or other qualified health care professional who can report E&M services, provided to an established patient, not originating from a related E&M service provided within the previous 7 days nor leading to an E&M service or procedure within the next 24 hours or soonest available appointment. Typically, 5-10 minutes of medical discussion.	\$13.33

260.103 Telemedicine Originating Site Requirements to Allow Services to a Beneficiary in his or her Home Through Date of Service December 31, 2021

Section 105.190 is suspended for the originating site requirement to allow all providers who can provide telemedicine services to provide those services to a beneficiary in his or her home through date of service December 31, 2021.

An out-of-state physician, nurse practitioner, or physician assistant who is an enrolled provider in Arkansas Medicaid may provide telemedicine services to an Arkansas Medicaid client, including prescribing drugs when clinically appropriate. The provider must follow any applicable requirements, including without limitation requirements of the United States Drug Enforcement Agency (DEA), the Arkansas State Medical Board, and the Arkansas Board of Nursing. It is the understanding of DHS that the DEA has temporarily waived the requirement that out-of-state physicians have an Arkansas DEA registration to prescribe drugs through telemedicine:

[https://www.deadiversion.usdoj.gov/GDP/\(DEA-DC018\)\(DEA067\)%20DEA%20state%20reciprocity%20\(final\)\(Signed\).pdf](https://www.deadiversion.usdoj.gov/GDP/(DEA-DC018)(DEA067)%20DEA%20state%20reciprocity%20(final)(Signed).pdf)

Professional Relationship Requirements

Generally, a provider must have an established relationship with a patient before utilizing telemedicine to treat a patient. (See Medicaid Provider Manual § 105.190.) However, DMS has the authority to relax this requirement in case of an emergency. DMS is lifting the requirement to have an established professional relationship before utilizing telemedicine for physicians through date of service December 31, 2021 under the following conditions:

- The physician providing telehealth services must have access to a patient's personal health record maintained by a physician.
- The telemedicine service may be provided by any technology deemed appropriate, including telephone, but it must be provided in real time (cannot be delayed communication).
- Physicians may use telemedicine to diagnose, treat, and, when clinically appropriate, prescribe a non-controlled drug to the patient.

To bill for these services, please use the appropriate billing procedure code with the "GT" modifier and Place of Service (POS) "02"

Originating Site Requirements

DMS is waiving the originating site requirement for evaluation and management (E&M) services provided to established site patients by primary care providers. This will allow the physician to utilize telemedicine technology, including telephone, when appropriate, to diagnose, treat and prescribe non-controlled substances to patients while the patient remains in their home. The following requirements must be met to use telemedicine technology to provide services without an originating site:

- The technology must be real-time - cannot be delayed communications
- The physician must have access to the patient's medical records.

To bill for these services, please use the appropriate billing codes with the "GT" and Place of Service "02" modifier.

Virtual Patient Check-Ins

To use the Code G2012 to provide virtual check-in services, the following requirements must be met:

- Can be any real-time audio (telephone), or “2-way audio interactions that are enhanced with video or other kinds of data transmission.”
- For established patients only.
- To be used for:
 - Any chronic patient who needs to be assessed as to whether an office visit is needed.
 - Patients being treated for opioid and other substance-use disorders.
- Nurse or other staff member cannot provide this service. It must be a clinician who can bill primary care services.
- If an E&M service is provided within the defined time frames, then the telehealth visit is bundled with that E&M service. It would be considered pre- or post-visit time and not separately billable.
- No geographic location restrictions for the patient.
- Communication must be HIPAA compliant.

Code	Short Description	Fee
G2012	Brief communication technology-based service, e.g. virtual check-in, by a physician or other qualified health care professional who can report E&M services, provided to an established patient, not originating from a related E&M service provided within the previous 7 days nor leading to an E&M service or procedure within the next 24 hours or soonest available appointment. Typically, 5-10 minutes of medical discussion.	\$13.33

265.100 Behavioral Health Telemedicine

Sections 252.113 and 252.114 concerning face-to-face treatment requirements are suspended through date of service December 31, 2021. Section 252.117 concerning telemedicine service limitations for beneficiaries age twenty-one (21) and over is suspended through date of service December 31, 2021 along with Section 252.119 concerning telemedicine service limitations related to substance abuse assessments and Section 255.001 concerning face-to-face service requirements for crisis intervention.

DMS is suspending the rules prohibiting telemedicine for Marital/Family Behavioral Health Counseling with or without the Beneficiary being present. By suspending this rule, licensed behavioral health professionals will be able to provide Marital and Family Therapy Services via telemedicine. Any technology deemed appropriate may be used, including telephones, but technology must utilize direct communication that takes place in real-time.

The allowable codes for these rule suspensions:

- Marital/Family Behavioral Health Counseling with Beneficiary Present
 - 90847, U4, GT
 - 90847, U4, U5, GT – Substance Abuse
 - 90847, UC, UK, U4, GT – Dyadic Treatment
 - Place of Service to include 02 Telemedicine
- Marital/Family Behavioral Health Counseling without Beneficiary Present
 - 90846, U4, GT
 - 90846, U4, U5, GT – Substance Abuse
 - Place of Service to include 02 Telemedicine

DMS is suspending the rule limiting Mental Health Diagnosis be conducted via telemedicine to only the adult population over age 21. By suspending this rule, licensed behavioral health professionals will be able to use telemedicine as an allowable mode of service delivery to beneficiaries under the age of 21.

The allowable code for this rule suspension:

- Mental Health Diagnosis
 - 90791, U4, GT
 - 90791, UC, UK, U4, GT – Dyadic Treatment Diagnosis
 - Allowable Mode of Delivery- Adults, Youth and Children

DMS is suspending the requirement that substance abuse assessments be conducted face-to-face. By suspending this rule, licensed behavioral health professionals will be able to use telemedicine as an allowable mode of service delivery to provide substance abuse assessments.

The allowable code for this rule suspension:

- Substance Abuse Assessment
 - H0001, U4

DMS is suspending the rule prohibiting telemedicine for Crisis Intervention Services. By suspending this rule, licensed behavioral health professionals will be able to provide Crisis Intervention Services via telemedicine. Technology must utilize direct communication that takes place in real-time.

The allowable billing codes for this rule suspension:

- Crisis Intervention
 - H2011, HA, U4, GT
 - Place of service code 02

