




North Dakota Insurance Department

Jon Godfread, Commissioner

BULLETIN 2021-1

TO: Insurance Carriers Offering Health Insurance Policies
FROM: Jon Godfread, Commissioner 
DATE: June 2, 2021
SUBJECT: Expansion of Telehealth Services

Effective upon issuance of this Bulletin, Bulletin 2020-3 is hereby rescinded and replaced by Bulletin 2021-1.

In response to the passage of House Bill No. 1465 ("HB1465") by the 67th Legislative Assembly, which was signed by Governor Doug Burgum on May 7th, 2021, and in consideration of ongoing federal guidance, the North Dakota Insurance Department issues this Bulletin regarding telehealth services. This Bulletin is intended to provide health insurance carriers with guidance to assist in satisfying telehealth coverage requirements.

Pursuant to this Bulletin, insurance carriers issuing health benefit plans that offer telehealth services must apply the telehealth services consistent with this Bulletin. This Bulletin includes guidance issued by the Centers for Medicare & Medicaid Services (CMS) on March 17, 2020 to expand telehealth services:

<https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

The United States Office of Civil Rights (OCR), which enforces the HIPAA privacy standards, allows for expanded use of devices in additional settings through the end of the National Emergency:

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>.

The United States Secretary of Health and Human Services (HHS) renewed the determination that a public health emergency exists nationwide, as a result of the continued consequences of the COVID-19 pandemic, effective April 21, 2021:

<https://www.phe.gov/emergency/news/healthactions/phe/Pages/COVID-15April2021.aspx>

Pursuant to this Bulletin and the guidance of CMS, OCR, and HHS, health insurers must relax the guidelines under HIPAA consistent with CMS guidance (i.e., serving patients in good faith through everyday communications technology including, but not limited to audio-only telephone or third-party video telecommunication system). Further, insurance carriers must start or continue to provide covered services via telehealth visits. These services include, but are not limited to, the following:

- Office visits for patients
- Physical therapy (PT) plan evaluation
- Occupational therapy (OT) plan evaluation
- Speech therapy (ST) plan evaluation
- Behavioral health and substance use disorder treatment
- Diabetes education
- Nutrition counseling

In addition to traditional telehealth services carriers must expand telehealth under the CMS guidance and now offer coverage for e-visits and virtual check-ins. Insurance carriers shall establish reasonable requirements for the coverage of these virtual check-ins and e-visits in accordance with the guidance issued by CMS on March 17, 2020.

HB1465:

HB1465 added the definitions of “e-visit,” “nonpublic facing product,” “secure connection,” and “virtual check-in” to and amended the definition of “telehealth” in Section 26.1-36-09.15 of the North Dakota Century Code. The Department’s understanding of the intent of these additions and amendments was to codify the March 17, 2020, CMS guidance and to clarify which telehealth services are to be covered in health insurance plans issued to North Dakota consumers.

“Telehealth” Definition and “E-visits” and “Virtual Check-Ins”: The new telehealth definition, found at N.D.C.C. §26.1-36-09.15(3)(j), includes the use of audio-only telephone when used for the purpose of e-visits or virtual check-ins. While the definition of “e-visit” references “face-to-face” visits initiated by the consumer using the provider’s online portal, the Department interprets the “telehealth” definition to make an exception for audio-only telephone visits, as long as the service otherwise fits the definition of “e-visit” and is within the coded services provided by CMS guidance. This exception also applies to “virtual check-ins.”

“Nonpublic Facing Product” and “Secure Connection”: The new definitions are consistent with CMS and HHR guidance, while allowing use of third-party video telecommunications systems for telehealth visits, as long as the provider uses a nonpublic facing product that employs the use of end-to-end encryption. The product must also meet all federal and state privacy requirements. N.D.C.C. § 26.1-36-09.15(1).

Cost-Sharing:

Coverage for telehealth services under N.D.C.C. § 26.1-36-09.15 may be subject to deductible, coinsurance, and copayment provisions. However, during the federal public health emergency for the COVID-19 pandemic, HHS encourages carriers to continue to waive cost-sharing for telehealth services.

In order to ensure consistency in the market for insurance carriers and consumers the following codes are to be used in relation to these telehealth services.

Type of Service	What is the Service	HCPCS/CPT Code	Patient Relationship with Practitioner
Telehealth visit	Visit with a provider that uses a telecommunication system connecting the patient with the provider. These visits are scheduled and initiated by the provider.	During the COVID-19 emergency declaration, allow the originating site to be the patient's home <ul style="list-style-type: none"> • 99201-99215* • G0425-G0427 • G0406-G0408 	New or established patients
Virtual Check-In	A brief communication via telephone or other telecommunication device to decide whether an office visit or other service is needed. A remote evaluation of recorded video and/or images submitted by an established patient.	Recognized services during COVID-19 emergency declaration <ul style="list-style-type: none"> • 99441-99443 • G2012 • G2010 	For established patients
Digital Telehealth (E-visits)	Digital communication initiated by the member to a provider through the provider's online patient portal.	<ul style="list-style-type: none"> • 99421-99423 • 98970-98972 • G2061-G2063 *Providers must append modifier 95 to support a face-to-face communication with the patient	For established patients

**For services outside of Evaluation and Management visits and digital visits, providers should use the appropriate CPT or HCPCS code and applicable modifier for the services rendered, if the services meet all criteria of the services rendered. Provider should submit Place of Service Code 02 (Telehealth) if the provider is rendering services through a telehealth communication system.*

Effect and Questions

This Bulletin is in effect until rescinded by the North Dakota Insurance Commissioner. If you have any questions about this Bulletin, please contact the North Dakota Insurance Department at 701-328-2440.