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## Rules Advisory Committee Notification

**Date:** August 26, 2021

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Diane Quiring (503) 551-3098 [Diane.s.quiring@dhsoha.state.or.us](mailto:Diane.s.quiring@dhsoha.state.or.us)

The Health Systems Division has scheduled the following Rules Advisory Committee (RAC):

- **Program:** **Division 410 Chapter 120** OHP General Rules  
**Division 410 Chapter 141** Oregon Health Plan (MCE & CCO) Administrative Rules
- **Meeting description:** Combined RAC on OHP Telehealth Requirements for Fee-For-Service/Open Card Providers and Coordinated Care Organizations (CCOs)
- **Meeting date and time:** Wednesday, September 22, 2021 2:00 PM – 4:00 PM
- **Meeting location:** This is a Zoom meeting only. Seated RAC members can join the meeting [here](#). For participation by phone, RAC members can call (669)254-5252
  - Meeting ID: 161 430 0732 Passcode: 091998
- **Seeking RAC members?** Yes

At the RAC, members will provide input that will help us develop the Notice of Proposed Rulemaking, and help us better understand the fiscal impact of the proposed rule changes. Proposed changes are viewable [here](#).

Please share this information with others who may be affected by, and interested in providing input about, the proposed rule changes.

### Proposed changes for Rules Advisory Committee discussion

To view the current rules, go to <http://www.oregon.gov/oha/HSD/Pages/Rules.aspx>.

Rule	Proposed Change
<u>OHP General Rule</u> 410-120-1990 Telehealth	Changes to implement HB 2508 relating to whether providers must offer both physical/in-person visits and virtual appointments, permanency of rate parity and the use of audio only technology at the conclusion of the federal Public Health Emergency (PHE).
<u>MCE &amp; CCO Rule</u> 410-141-3566 Telemedicine Payment Parity Requirements	

### Rules Advisory Committee contact information

Organizations will only be allowed one (1) individual to be seated as a RAC member. It will be incumbent upon organizations to identify who their representative will be prior to the beginning of each RAC. To sign up to participate, contact Janine Stephens by Friday September 17<sup>th</sup>. Include the meeting date, time and program name.

- **Contact:** Janine Stephens
- **Phone:** (503) 428-0643
- **E-mail:** Janine.l.stephens@dhsoha.state.or.us

Thank you in advance for your participation and continued interest.

### **About Rule Advisory Committees**

Rule Advisory Committee meetings are held in accordance with [Oregon Revised Statute 183.333](#) (Policy statement; public involvement in development of policy and drafting of rules).

The RAC will hold at least one meeting to discuss the proposed revisions, the fiscal impact statement, and summary for the Notice of Proposed Rulemaking that the Division will file for these changes.

### **Accommodations**

Everyone has a right to know about and use Oregon Health Authority (OHA) programs and services. OHA provides free help. Some examples of the free help OHA can provide are:

- Sign language and spoken language interpreters
- Written materials in other languages
- Braille
- Large print
- Audio and other formats

If you need help or have questions, please contact Janine Stephens at (503) 428-0643 least 48 hours before the event.

## 410-141-3566 Telemedicine/Telehealth Service and Reimbursement Requirements

### (Proposed Changes Effective 1/1/22)

~~(1) For the purpose of this rule, the Authority defines telehealth as the use of electronic information and telecommunications technologies. The following definitions apply to the Division's administrative rules governing Managed Care Entities (MCEs) as defined in 410-141-3500; to support and promote long-distance clinical health care, patient and professional health-related education, public health and health administration.~~

~~(a) Information related to telehealth services may be transmitted via landlines, and wireless communications, including the Internet and telephone networks;~~

~~(b) Services can be synchronous (using audio and video, video only or audio only) or asynchronous (using audio and video, audio, or text-based media) and may include transmission of data from remote monitoring devices. Communications may be between providers, or be between one or more providers and one or more patients, family members /caregivers /guardians).~~

~~(a) "Asynchronous" means an interaction between a provider and a member that does not occur at the same time using an interactive telecommunication technology. This may include audio and video, audio, or patient portal and may include transmission of data from remote monitoring devices.~~

~~(b) "Audio only" means the use of devices for a telemedicine/telehealth encounter without inclusion of any video component. This may be due to lack of device capacity, Internet access, or member choice.~~

~~(c) "Meaningful access" means member-centered access reflecting the following statute / standards:~~

~~(A) Pursuant to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act and the corresponding Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557) and The Americans with Disabilities Act and Amendments Act of 2008 (ADA), providers' telemedicine/telehealth services shall accommodate the needs of individuals who have difficulty communicating due to a medical condition, who need accommodation due to a disability, advanced age or who have limited English proficiency (LEP) and including providing access to auxiliary aids and services as defined in Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557);~~

~~(B) National Culturally and Linguistically Appropriate Services (CLAS) Standards at <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>;~~

~~(C) Tribal based practice standards: <https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>.~~

~~(d) "Synchronous" means an interaction between a provider and a member that occurs at the same time using an interactive technology. This may include audio only, video only, or audio and video and may include transmission of data from remote monitoring devices.~~

~~(e) "Telecommunication technologies" means the use of devices and services for telemedicine/telehealth delivered services. These may include services with information transmitted via landlines and wireless communications, including the Internet and telephone networks.~~

(f) “Telehealth” may also be used interchangeable with telemedicine. Telehealth also includes the use of electronic information and telecommunications technologies to support and promote remote member and professional health-related education, public health, and health administration.

(g) “Telemedicine” means the mode of delivering health services using information and telecommunication technologies to provide consultation and education or to facilitate diagnosis, treatment, care management or self-management of a member’s health care.

(h) “Trauma informed approach” as defined in OAR 410-141-3500

(i) “Trauma informed services” as defined in OAR 410-141-3500

(2) Telehealth encompasses different types of programs, services and delivery mechanisms for medically appropriate services for covered physical, behavioral and oral health conditions within the patient’s defined benefit package.

(3) Communications may be between providers, or between one or more providers and one or more members, family members /caregivers /guardians.

(4) CCOs shall ensure that Providers do not prohibit, exclude or otherwise limit OHP members from using exclusively telemedicine/telehealth services, except where the Authority issues explicit guidance during a declared state of emergency or if a facility has implemented its facility disaster plan.

(5) CCOs shall ensure that member choice and accommodation for telemedicine/telehealth shall encompass the following standards and services:

(a) CCOs shall ensure that providers offer meaningful access to telemedicine/telehealth services by assessing members’ capacities to use specific approved methods of telemedicine/telehealth delivery that comply with accessibility standards including alternate formats, and provides the optimal quality of care for the member given considerations of member access to necessary devices, access to a private and safe location, adequate internet, digital literacy, cultural appropriateness of telemedicine/telehealth services, and other considerations of member readiness to use telemedicine/telehealth;

(b) CCOs shall ensure that providers offer meaningful access to health care services for LEP and Deaf and hard of hearing members and their families by working with qualified or certified health care interpreters to provide language access services as described in OAR 333-002-0040;. Such services shall not be significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

(c) CCOs shall ensure that providers collaborate with members to identify modalities for delivering health care services which best meets the needs of the member.

(d) CCOs shall ensure that providers offer telemedicine/telehealth services provided are culturally and linguistically appropriate as described in the relevant standards:

(A) National Culturally and Linguistically Appropriate Services (CLAS) Standards;

(B) Tribal based practice standards;

(C) Trauma-informed approach to care as defined in 410-141-3500.

~~(63)~~ CCOs shall provide reimbursement for telehealth services and reimburse Certified and Qualified Health Care Interpreters (HCIs) [as defined in OAR 333-002-0010](#) for interpretation services provided via telemedicine at the same reimbursement rate as if it were provided in person. This requirement does not supersede the CCOs direct agreement(s) with providers, including but not limited to, alternative payment methodologies, quality and performance measures or Value Based Payment methods described in the CCO contract. However, nothing either in this requirement or within CCO direct agreement(s) with providers referenced herein supersedes any federal or state requirements with regard to the provision and coverage of health care interpreter services.

~~.(4) Providers are prohibited from excluding or otherwise limiting OHP members to using exclusively telehealth services, except where Authority has implemented section (9) of this rule.~~

~~.(5) CCOs shall ensure patient choice and accommodation encompass the following standards and services:~~

~~(a) Consistent with Care Coordination requirements in OAR 410-141-3865, CCOs shall work with their contracted providers to ensure meaningful access to services by assessing members' capacities to use specific approved methods of telehealth delivery that comply with accessibility standards including alternate formats, and provides the optimal quality of care for the patient given their capacity;~~

~~(b) Pursuant to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act and the corresponding Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557) and The Americans with Disabilities Act and Amendments Act of 2008 (ADA), CCOs shall provide access to auxiliary aids and services to ensure that telehealth services accommodate the needs of individuals who have difficulty communicating due to a medical condition, who need accommodation due to a disability, advanced age or who have limited English proficiency (LEP);~~

~~.(c) CCOs shall ensure access to health care services for LEP and Deaf and hard of hearing patients and their families through the use of qualified and certified health care interpreters, embedded or third-party interpretive services to provide meaningful language access services as described in OAR 333-002-0040;~~

~~.(d) CCOs shall ensure that telehealth services provided are culturally and linguistically appropriate as described in the relevant standards:~~

~~(A) National Culturally and Linguistically Appropriate Services (CLAS) Standards, <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>;~~

~~(B) Tribal based practice standards, <https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>;~~

~~(C) Trauma informed approach to care as defined in 410-141-3500.~~

~~(76)~~ Consistent with OAR 410-120-1990 privacy and security standards must be met by satisfying the following:

(a) Prior to the delivery of services via a [telemedicine/telehealth](#) modality, a patient oral, recorded, or written consent to receive services using a telehealth delivery method shall be obtained and documented annually. [Consent must include an assessment of member readiness to access and participate in telemedicine/telehealth delivered services, including conveying all other options for](#)

[receiving the health care service to the member](#). Consent must be updated at least annually thereafter. For LEP and Deaf and hard of hearing patients and their families, providers must use qualified and certified health care interpreters, when obtaining patient consent.

(b) Consistent with ORS 109.640, provision of birth control information and services shall be provided to any person regardless of age without consent of parent or legal guardian.

(c) Consistent with ORS 109.640, provision of any other medical or dental diagnosis and treatment shall be provided to any person 15 years of age or older without consent of parent or legal guardian.

(d) Services provided using a [telemedicine/telehealth](#) platform shall comply with Health Insurance Portability and Accountability Act (HIPAA, <https://aspe.hhs.gov/report/health-insurance-portability-and-accountability-act-1996>) and with the Authority's Privacy and Confidentiality Rules (Chapter 943 Division 14) except as noted in section ([109](#)) below.

(e) The [patient member](#) may be located in the community or in a health care setting.

(f) Providers may be located in any location where privacy can be ensured.

(g) Persons providing interpretive services and supports shall be in any location where [patientmember](#) privacy and confidentiality can be ensured.

~~(87)~~ CCOs shall ensure their network providers offer telehealth services that meet the following requirements:

(a) Provide services via telehealth that are within their respective certification or licensing board's scope of practice and comply with [telemedicine/telehealth](#) requirements including but not limited to:

(A) Documenting patient and provider agreement of consent to receive services;

(B) Allowed physical location of provider and patient;

(C) Establishing or maintaining an appropriate provider-patient relationship.

(b) Complying with HIPAA and the Authority's Privacy and Confidentiality Rules and security protections for the [patient member](#) in connection with the [telemedicine/telehealth](#) communication and related records requirements (OAR chapter 943 division 14 and 120, OAR 410-120-1360 and 1380, 42 CFR Part 2, if applicable, and ORS 646A.600 to 646A.628 (Oregon Consumer Identity Theft Protection Act)) except as noted in section (9) below;

(c) Obtaining and maintaining technology used in [telemedicine/telehealth](#) communication that is compliant with privacy and security standards in HIPAA and the Authority's Privacy and Confidentiality Rules described in subsection ([Ab](#)) except as noted in section (9) below;

(d) Ensuring policies and procedures are in place to prevent a breach in privacy or exposure of [memberpatient](#) health information or records (whether oral or recorded in any form or medium) to unauthorized persons;

(e) Maintaining clinical and financial documentation related to ~~telehealth~~[telemedicine/telehealth](#) services as required in OAR 410-120-1360;

(f) Complying with all federal and state statutes as required in OAR 410-120-1380.

(98) CCO reimbursement to network providers offering [telehealth/telemedicine](#)/telehealth services shall meet the following requirements:

(a) Services provided shall be medically and clinically appropriate for covered conditions within the Health Evidence Review Commission's (HERC) prioritized list and in compliance with relevant guideline notes;

(b) Dependent on individual certification or licensing board's scope of practice standards, telehealth delivered services for covered conditions are covered when an established relationship exists between a provider and patient as defined by a patient who has received in person professional services from the physician or other qualified health care professional within the same practice within the past three years, and for establishing a patient-provider relationship;

(c) For all claim types except dental, CCOs shall ensure that encounter submissions for services covered using synchronous audio and video include modifiers GT or 95, and can be billed with either telephone codes (e.g. 99441) or regular in-person codes. For all telehealth services including dental, CCOs shall ensure that encounter submissions include Place of Service code 02;

(d) All physical, behavioral and oral [telehealth/telemedicine](#)/telehealth services except School Based Health Services (SBHS) shall include Place of Service code 02;

(e) When provision of the same service via synchronous audio and video is not available or feasible, e.g. the [patient-member](#) declines to enable video, or necessary consents cannot reasonably be obtained with appropriate documentation in [member/patient](#)'s medical record, then encounter submissions should not include any modifiers but should continue billing Place of Service as 02.

(109) In the event of a declared emergency or changes in federal requirements, the Authority may adopt flexibilities to remove administrative barriers and support [telehealth/telemedicine](#)/telehealth delivered services:

(a) The Authority will follow guidance from the US Department of Health and Human Services (HHS) Office for Civil Rights (OCR) which may allow enforcement discretion related to privacy or security requirements;

(b) The Authority may expand network capacity through remote care and telehealth services provided across state lines;

~~(c) The Authority may expand access to telehealth services for new patients;~~

~~(c)~~ Should the Authority exercise options in this section (9), all CCO obligations for Network Adequacy requirements as described in OAR 410-141-3515 remain in full effect.

**Statutory/Other Authority:** ORS 413.042, 414.572, 414.591, 414.605 & 414.615

**Statutes/Other Implemented:** ORS 414.572

## 410-120-1990 Telemedicine / Telehealth

(1) For the purpose of this general rule, the ~~Authority defines telehealth as the use of electronic information and telecommunications technologies following definitions apply to support and promote long-distance clinical healthcare, patient and professional health-related education, public health and health administration.~~

~~(a) Information related the Division's administrative rules applicable to telehealth services may be transmitted via landlines and wireless communications, including the Internet and telephone networks; medical assistance program.~~

~~(b) Services can be synchronous (using (a) "Asynchronous" means an interaction between a provider and a member that does not occur at the same time using an interactive telecommunication technology. This may include audio and video, video only or audio only) or asynchronous (using audio and video, audio, or text-based media), or patient portal and may include transmission of data from remote monitoring devices. Communications may be between providers, or between one or more providers and one or more patients, family members /caregivers /guardians.~~

~~(2) Telehealth encompasses different types of programs, services and delivery mechanisms for medically appropriate services for covered physical, behavioral and oral health conditions within the patient's defined benefit package. This overarching fee for service rule applies to all program-specific rules or as set forth in the individual program provider rules. Providers are prohibited from excluding or otherwise limiting OHP members to using exclusively telehealth services, except where Authority has implemented section (7) of this rule.~~

~~(3) Patient choice and accommodation for telehealth shall encompass (b) "Audio only" means the use of devices for a telemedicine/telehealth encounter without inclusion of any video component. This may be due to lack of device capacity, Internet access, or member choice.~~

~~(c) "Meaningful access" means member-centered access reflecting the following statute / standards and services:~~

~~(a) Providers shall provide meaningful access to telehealth services by assessing patients' capacities to use specific approved methods of telehealth delivery that comply with accessibility standards including alternate formats, and provides the optimal quality of care for the patient given their capacity;~~

~~(b)(A) Pursuant to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act and the corresponding Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557) and The Americans with Disabilities Act and Amendments Act of 2008 (ADA), providers' telemedicine/telehealth services shall accommodate the needs of individuals who have difficulty communicating due to a medical condition, who need accommodation due to a disability, advanced age or who have limited English proficiency (LEP) and including providing access to auxiliary aids and services as defined in Code of Federal Regulation (CFR) at 45 CFR Part 92 (Section 1557);~~

~~(c) Providers shall provide meaningful access to health care services for LEP and Deaf and hard of hearing patients and their families by working with qualified and certified health care interpreters, to provide language access services as described in OAR 333-002-0040;~~

~~(d) Providers' telehealth services shall be culturally and linguistically appropriate as described in the relevant standards:~~



~~(A)~~ National Culturally and Linguistically Appropriate Services (CLAS) Standards: at <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>;

~~(B)~~ Tribal based practice standards: <https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>.

~~(C)~~ ~~Services shall be provided~~ Tribal based practice standards: <https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>.

(d) “Synchronous” means an interaction between a provider and a member that occurs at the same time using a trauma an interactive technology. This may include audio only, video only, or audio and video and may include transmission of data from remote monitoring devices.

(e) “Telecommunication technologies” means the use of devices and services for telemedicine/telehealth delivered services. These may include services with information transmitted via landlines and wireless communications, including the Internet and telephone networks.

(f) “Telehealth” may also be used interchangeable with telemedicine. Telehealth also includes the use of electronic information and telecommunications technologies to support and promote remote member and professional health-related education, public health, and health administration.

(g) “Telemedicine” means the mode of delivering health services using information and telecommunication technologies to provide consultation and education or to facilitate diagnosis, treatment, care management or self-management of a member’s health care.

(h) “Trauma informed approach.” ~~“Trauma Informed Approach”~~ means approach undertaken by providers and healthcare or human services programs, organizations, or systems in providing mental health and substance use disorders treatment wherein there is a recognition and understanding of the signs and symptoms of trauma in, and the intensity of such trauma on, individuals, families, and others involved within a program, organization, or system. ~~It and~~ then consider stakes into account those signs, symptoms, and their intensity and fully integrates integrating that knowledge when implementing and providing potential paths for recovery from mental health or substance use disorders. The Trauma Informed Approach also means that providers and healthcare or human services programs, organizations, or systems can and actively resist re-traumatization of the individuals being served within their respective entities.

~~(4) Privacy and security standards for~~ (i) “Trauma informed services” means those services provided using a Trauma Informed Approach.

(2) Telemedicine/telehealth encompasses different types of programs, services, and delivery mechanisms for medically appropriate services for covered physical, behavioral, and oral health conditions within the member’s defined benefit package. This overarching fee for service rule applies to all program-specific rules or as set forth in the individual program provider rules.

(3) Communications may be between providers, or between one or more providers and one or more members, family members /caregivers /guardians.

(4) Providers are prohibited from excluding or otherwise limiting OHP members to using exclusively telemedicine/telehealth services, except where the Authority issues explicit guidance during a declared state of emergency or if a facility has implemented its facility disaster plan.

(5) Member choice and accommodation for telemedicine/telehealth shall encompass the following standards and services:

(a) Providers shall offer meaningful access to telemedicine/telehealth services by assessing members' capacities to use specific approved methods of telemedicine/telehealth delivery that comply with accessibility standards including alternate formats, and provides the optimal quality of care for the member given considerations of member access to necessary devices, access to a private and safe location, adequate internet, digital literacy, cultural appropriateness of telemedicine/telehealth services, and other considerations of member readiness to use telemedicine/telehealth;

(b) Providers shall offer meaningful access to health care services for LEP and Deaf and hard of hearing members and their families by working with qualified or certified health care interpreters, to provide language access services as described in OAR 333-002-0040. Such services shall not be significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

(c) Providers shall collaborate with members to identify and offer modalities for delivering health care services which best meets the needs of the member and considers the member's choice and readiness for the modality of service selected.

(d) Providers shall offer telemedicine/telehealth services which are culturally and linguistically appropriate as described in the relevant standards:

(A) National Culturally and Linguistically Appropriate Services (CLAS) Standards:  
[https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53;](https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53)

(B) Tribal based practice standards: <https://www.oregon.gov/OHA/HSD/AMH/Pages/EBP.aspx>.

(6) Privacy and security standards for telemedicine/telehealth services shall be met by satisfying the following:

(a) Prior to the delivery of services via a telemedicine/telehealth modality, a patientmember oral, recorded, or written consent to receive services using a telemedicine/telehealth delivery method in the language that the patientmember understands must be obtained and documented by Providers annually. Consent must include an assessment of member readiness to access and participate in telemedicine/telehealth delivered services, including conveying all other options for receiving the health care service to the member. Consent must be updated at least annually thereafter. For LEP and Deaf and hard of hearing patientsmembers and their families, providers must use qualified and/or certified health care interpreters when obtaining patientmember consent.

(b) Consistent with ORS 109.640, provision of birth control information and services via a telemedicine/telehealth modality shall be provided to any person regardless of age without consent of parent or legal guardian.

(c) Consistent with ORS 109.640, provision of any other medical or dental diagnosis and treatment via a telemedicine/telehealth modality shall be provided to any person 15 years of age or older without consent of parent or legal guardian.

(d) Services provided using a telemedicine/telehealth platform shall comply with Health Insurance Portability and Accountability Act (HIPAA), ~~<https://aspe.hhs.gov/report/health-insurance-portability-and-accountability-act-1996>~~, <https://aspe.hhs.gov/report/health-insurance-portability-and-accountability-act-1996>, and with the Authority's Privacy and Confidentiality Rules (Chapter 943 Division 14) except as noted in section (79) below.

(e) The patientmember may be located in the community, or in a health care setting.

(f) OHP enrolled providers may be located in any location where patient/member privacy and confidentiality can be ensured.

(g) Persons providing interpretive services and supports shall be in a location where patient/member privacy and confidentiality can be ensured.

~~(5) Telehealth~~ (7) Telemedicine/telehealth providers shall meet the following requirements:

(a) Shall be enrolled with the Authority as an Oregon Health Plan (OHP) provider, per 410-120-1260.

(b) Shall provide services via telemedicine/telehealth that are within their respective certification or licensing board's scope of practice and comply with telemedicine/telehealth requirements including, but not limited to:

(A) Documenting patient/member and provider agreement of consent to receive services;

(B) Allowed physical location of provider and patient/member.

(C) Establishing or maintaining an appropriate provider-patient/member relationship.

(c) Providers billing for covered telemedicine/telehealth services are responsible for:

(A) Complying with HIPAA and the Authority's Privacy and Confidentiality Rules and security protections for the patient/member in connection with the telemedicine/telehealth communication and related records requirements (OAR chapter 943 division 14 and 120, OAR 410-120-1360 and 1380, 42 CFR Part 2, if applicable, and ORS 646A.600 to 646A.628 (Oregon Consumer Identity Theft Protection Act) except as noted in section ~~(79)~~ below;

(B) Obtaining and maintaining technology used in telemedicine/telehealth communication that is compliant with privacy and security standards in HIPAA and the Authority's Privacy and Confidentiality Rules described in subsection (A) except as noted in section ~~(79)~~ below;

(C) Developing and maintaining policies and procedures to prevent a breach in privacy or exposure of patient/member health information or records (whether oral or recorded in any form or medium) to unauthorized persons and timely breach reporting;

(D) Maintaining clinical and financial documentation related to telemedicine/telehealth services as required in OAR 410-120-1360 and any program specific rules in OAR Ch 309 and Ch 410;

(E) Complying with all federal and state statutes as required in OAR 410-120-1380.

~~(68)~~ Authority will only pay for telemedicine/telehealth services meeting all of the following requirements:

(a) Services provided shall be medically and clinically appropriate for covered conditions within the Health Evidence Review Commission's (HERC) prioritized list and in compliance with relevant guideline notes;

(b) The Authority shall provide reimbursement for telemedicine/telehealth services at the same reimbursement rate as if it were provided in person. As a condition of reimbursement, providers shall agree to reimburse Certified and Qualified Health Care Interpreters (HCIs) for interpretation services provided via telemedicine/telehealth at the same rate as if interpretation services were provided in-person, per OARs 410-141-3515(12) and 410-141-3860(12);

(c) When allowed by individual certification or licensing boards' scope of practice standards, telemedicine/telehealth delivered services for covered conditions are covered:

(A) When an established relationship exists between a provider and patientmember as defined by a patientmember who has received in-person professional services from the physician or other qualified health care professional within the same practice within the past three years; and

(B) For establishing a patientmember-provider relationship.

(d) All physical, behavioral, and oral telemedicine/telehealth services except School Based Health Services (SBHS) shall include Place of Service code 02;

(e) All claim types except Dental services, shall use modifiers GT or 95 when the telemedicine/telehealth delivered service utilizes a synchronous audio and video modality. When provision of the same service via synchronous audio and video is not available or feasible (e.g., the patientmember declines to enable video, or necessary consents cannot reasonably be obtained with appropriate documentation in patient'smember's medical record) the claim should not include any modifiers but should continue billing Place of Service as 02.

(79) In the event of a declared emergency or changes in federal requirements, the Authority may adopt flexibilities to remove administrative barriers and support telemedicine/telehealth delivered services:

(a) The Authority will follow guidance from the US Department of Health and Human Services (HHS) Office for Civil Rights (OCR) which may allow enforcement discretion related to privacy or security requirements;

(b) The Authority may expand network capacity through remote care and telemedicine/telehealth services provided across state lines;

~~(c) The Authority may expand access to telehealth services for new patients.~~

**Statutory/Other Authority: - ORS 413.042**

**Statutes/Other Implemented: - ORS 414.025 & 414.065**

History:

[DMAP 64-2020, adopt filed 12/18/2020, effective 01/01/2021](#)