

## Definitions:

- Telehealth = the use of a technology-based virtual platform to deliver various aspects of health information, prevention, monitoring, and health care services.
- Telemedicine = the delivery of health care services via a remote electronic interface, including provider-to-provider, patient-to-provider.

National Center for Biotechnology Information  
<https://www.ncbi.nlm.nih.gov/books/NBK459384/>

Additional definitions: [Federal Telehealth Laws - CCHP \(cchpca.org\)](https://www.cchpca.org/federal-telehealth-laws)

# WHAT IS TELEHEALTH/TELEMEDICINE?

## Centers for Medicare & Medicaid Services (CMS)

We pay for specific Medicare Part B services that a physician or practitioner *at a distant site* provides via 2-way, interactive technology (or telehealth). Telehealth substitutes for an in-person visit, and generally involves 2-way, interactive technology that permits communication between the practitioner and patient.

Medicare Learning Network (MLN) Factsheet: [MLN901705 - Telehealth Services \(cms.gov\)](#)

**Distant site** = where the consulting provider is located **Originating site** = where the patient is located

# CMS TELEHEALTH/TELEMEDICINE

During the COVID-19 public health emergency (PHE), emergency waivers and other regulatory authorities encouraged and expanded the use of telehealth services until the end of the PHE on May 11, 2023. Section 4113 of the Consolidated Appropriations Act, 2023 ([BILLS-117hr2617enr.pdf \(congress.gov\)](https://www.congress.gov/bills/117/hr2617/enr/pdf)) extended many of these flexibilities through December 31, 2024, and made some of them permanent.

	Before PHE	During PHE	After PHE	Long-term	
Eligible “Distant site” providers	Specific licensure types only; Not from FQHCs or RHCs	All providers who are eligible to bill Medicare for prof’l services; Included FQHCs & RHCs	Extended “during PHE” allowances to 12/31/2024	Return to “Before PHE”...or new rules?	Physicians Nurse practitioners Physician assistants Nurse midwives Clinical nurse specialists Certified nurse anesthetists Clinical psychologists Clinical social workers Registered dietitians/ Nutrition professionals
Eligible Services	~100 specified CPT/HCPCs codes	240+ CPT/HCPCs codes	<a href="#">List of Telehealth Services   CMS</a>	PFS 2024 <a href="#">CMS-1784-F   CMS</a>	
Eligible Patient location*	- Specified clinical sites - Federally defined rural location - required	- Clinical site or home - Federally defined rural location - not required	Extended “during PHE” allowances to 12/31/2024	Return to “Before PHE”...or new rules?	
Asynchronous Telehealth	CMS only pays for asynchronous (aka, store-and-forward) telehealth in federal telemedicine demonstration conducted in Alaska or Hawaii. (GQ modifier)				PFS 2024 added marriage and family therapists and MH counselors, effective 1/1/2024 (permanent)
Billing & Coding	<a href="#">Billing for telehealth   Telehealth.HHS.gov</a> - CPT & HCPCs codes and modifiers, and POS (10 = patient in home; 02 = patient not in home) - Including originating (patient) site fee \$29.96 - use Q3014  Aug 16, 2024: Nitty Gritty of Telehealth Billing webinar <a href="#">TeleBehavioral Health Series Webinar Registration - Harborview Behavioral Health Institute (uw.edu)</a>				*2019: removed rural requirement; added patient home for SUD with co-occurring MH disorder - <b>permanent</b>
DEA: prescribing controlled substances Ryan Haight Act	See patient in-person at least once to prescribe (some exceptions)	“In-person” can be done via 2-way real-time interactive audio-visual technology	Extended “during PHE” allowances to 12/31/2024	Special registration to allow VTC evaluation to prescribe?	Qualifying practitioners can prescribe buprenorphine to patients with opioid use disorder based on a telephone evaluation

# CMS - TELEMENTAL HEALTH

[Centers for Medicare and Medicaid Services \(CMS\) Calendar Year \(CY\) 2022 Final Physician Fee Schedule \(PFS\):](#)

- TeleMental Health (TMH) Services - CMS will continue to:

- Pay for TMH into patient home and without geographic restrictions
  - Require in-person visit within 6 mos of first TMH visit
  - In-person requirement does not apply to treating MH disorder hereafter
  - Exception to in-person requirement r/t risk of in-person visit - must document!
- Pay for audio-only modality for TMH
  - TMH into “home”
  - Provider has audio-video access but patient does not/cannot use/will not consent to audio-video
  - Note: the CAA ‘23 extends availability of the telehealth services that can be furnished using audio-only technology through 12/31/2024. After 12/31/2024, CMS will not cover audio-only services (telephone E/M) except for mental health services.
- Allow federally qualified health centers (FQHCs) and rural health centers (RHCs) to deliver mental health services via interactive, real-time telecommunications technology including audio-only.

All Permanent

HR2617/CAA 2023 delayed in-person visit requirements through Dec 31, 2024

# WA STATE TELEHEALTH/TELEMEDICINE

- **Telemedicine definition**
  - HIPAA-compliant, interactive, real-time audio & video telecommunications, for diagnosis, consultation, or treatment
  - Includes store and forward (S&F) technology - requires associated office visit between patient and referring provider
  - Includes audio-only, with “established relationship” rules (HB1196 and HB5821)
  - Does not include: fax or email; installation/maintenance of telecomm devices/systems; incidental services/communications that are not billed separately; communicating lab results
  - Within scope of practice
  - To a client at a site other than the provider is located
- **Provider must be licensed in WA with some exceptions**
- **Mandated payment parity for telehealth**
- **Patient location: no geographic or locations restrictions (within WA); includes ‘home’**
- **Allows for payment of the originating site fee, but HCA does not pay an originating site facility fee in the following situations:**
  - Audio-only telemedicine
  - Store & forward
  - If originating site is: client’s home; hospital (inpatient); SNF; any location receiving payment for the client’s room and board; same entity as the distant (provider) site or if the provider is employed by the same entity as the distant site

**Also Permanent**

# TELEHEALTH & PROVIDER LOCATION

- **Providing telemedicine from your home (not regular clinical site):**
  - ✓ Allowed if leadership endorses.
  - ✓ There may be billing/coding implications.
  - ✓ Medicare enrollment:
    - Extended waiver to 12/31/2024: if occasional work from home, allows not enrolling a practitioner's home address with Medicare.
- **Credentials/Privileges:**
  - ✓ No matter where you (the clinician) are located, if you are providing services to a patient located in a clinical facility that credentials & privileges their clinicians, you must be credentialed & privileged at that location, too. (credential-by-proxy)
- **Cross-State Telemedicine/Telehealth:**
  - Providing care to patients within WA
    - WA Medical Commission\* does not require provider to be located in WA
    - Must be licensed in WA...unless:
      - Out-of-state provider consultation with WA provider
      - 2<sup>nd</sup> opinion from out-of-state provider
      - Temporary continuity-of-care for patient visiting or newly arrived in WA.
  - Providing care to patients outside of WA: **care takes place where patient is sitting during appointment**, so know that state's rules and telemedicine policy:
    - Reimbursement policies: Medicaid & private
    - Scope of Practice
    - Consent requirements
    - Malpractice
    - Licensure rules (31 state licensure exceptions)



[Home | Center for Connected Health Policy \(cchpca.org\)](#)  
<https://www.americantelemed.org/states-waiving-licensure-requirements-for-telehealth-in-response-to-covid-19.pdf> (fsmb.org)  
[Telemedicine policy 11 19 21.pdf](#) (wa.gov)  
[FINAL-2024-PHYSICIAN-FEE-SCHEDULE21.pdf](#) (cchpca.org)  
[2023-24184.pdf](#) (federalregister.gov)  
[BILLS-117hr2617enr.pdf](#) (congress.gov)  
[MLN901705 - Telehealth Services](#) (cms.gov)

# TELEHEALTH: LEGAL & REGULATORY

## Interstate Licensure Compacts

- ✓ Interstate Medical Licensure Compact [Physician License | Interstate Medical Licensure Compact \(imlcc.org\)](#)
  - Creates an expedited medical licensure process with the goal of allowing physicians to become licensed in multiple states more easily, while protecting patient safety.
  - **NEW! Physician Assistant Compact - brand new, more to come!**
- ✓ Psychology Interjurisdictional Compact (PSYPACT) [Psychology Interjurisdictional Compact \(PSYPACT\)](#)
  - Gives psychologists in PSYPACT member states the authority to practice interjurisdictional telepsychology in other PSYPACT states.
- ✓ Nurse Licensure Compact [Home | NURSECOMPACT](#)
  - Allows a nurse to have one multistate license with the ability to practice in the home state and other compact states.
- ✓ Physical Therapy Interstate Licensure Compact [PT Compact - Official Physical Therapy Compact Licensure](#)
  - Physical therapist or physical therapist assistant needs to obtain a “Compact Privilege” (the authorization to work in a Compact member state other than the PT or PTA’s home state) in each member state.
- X EMS Personnel Licensure Interstate Compact [Home | EMS Compact](#)
  - Extends a privilege for EMS personnel to practice on a short-term, intermittent basis in another member state under certain circumstances.
- ✓ Audiology & Speech-Language Pathology Interstate Compact (ASLP-IC) [ASLPCompact](#)
  - Authorizes both telehealth and in-person practice across state lines in ASLP-IC states for audiologists and speech-language pathologists

Note: exceptions for Veterans’ Administration and Indian Health Service



# KEY TELEHEALTH CONSIDERATIONS

**CMS Telemedicine vs CMS Telemental Health vs WA (or other) State Reimbursement, Rules, Regulations**

**Cross-state telemedicine services**

- ✓ **Must be licensed in state where patient is located** (compacts; special state telemedicine license)
- ✓ **Must abide by its laws and standards of care, and telemedicine-specific rules.**

**Malpractice** - policy valid in state where patient is located; covers telemedicine.

**Credentialing & Privileging** - provider (distant) site & patient (originating) site as required; credential-by-proxy (optional, TJC & CMS approved)

**Ryan Haight** - monitor changes re in-person visit requirement

**Telemedicine Consent** = best practice

**HIPAA, Privacy & Security**

- ✓ **Abide by HIPAA/HITECH Acts, federal & state requirements**
- ✓ **Additional privacy & security measures**

**Stark Law & Anti-kickback Statutes** - prevent unnecessary services or inappropriate referrals.