

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2015 Iowa Acts, Senate File 505, division V, section 12(23), the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment is related to a 2015 mandate by the General Assembly that administrative rules be adopted to provide for coverage of telehealth under the Medicaid program. The administrative rule must provide that an in-person contact between a health care professional and a patient is not required as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided. The mandate also directs that health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

This amendment formalizes a long-standing (non-rule-based) coverage standard that payment may be made for services rendered via telehealth to the same extent as such services are covered under Medicaid when they are rendered in person and where provision of such services via telehealth is considered appropriate by the current standards in the medical community.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2096C** on August 5, 2015. The Department received comments from three respondents during the comment period. The respondents’ comments and the Department’s responses to those comments are as follows:

Respondent 1’s comments. The respondent stated that the rule should include a definition of telehealth that is consistent with accepted telehealth technologies, including store-and-forward technology, remote monitoring and real-time observation. The respondent urged the Department to adopt a definition consistent with Iowa Administrative Code 653—subrule 13.11(1), which defines telemedicine and provides for all three categories of telemedicine technologies. The respondent stated that adding this language would be beneficial for providers and patients. Additionally, the respondent stated that the rule should make clear that all provider types are included under the rule. The respondent indicated that the rule as proposed was vague and needed to be specific. The respondent represents Iowa hospitals which have reported inconsistent reimbursement policies from Iowa Medicaid for telehealth services. The respondent noted that this has a negative impact on the health care continuum—affecting the ability of patients to receive timely and efficient care, prohibiting providers from providing the best health care to their patients, and slowing down the overall delivery of care.

Department response to Respondent 1’s comments. The Department believes the rule is consistent with the mandate in 2015 Iowa Acts, Senate File 505, division V, section 12, subsection 23, regarding what the rule needs to address. Specifically, the rule formalizes a long-standing (non-rule-based) Iowa Medicaid coverage standard that payment may be made for services rendered via telehealth. Telehealth services are to be rendered to the same extent as such services are covered under Medicaid when they are rendered in an in-person setting and where provision of such services via telehealth is considered appropriate by the current standards in the medical community.

Relative to the portion of the comment concerning the need to provide more specificity in the rule, there was no further direction from the Legislature indicating what further specification, such as specifying which particular telehealth services must be covered, was needed or required to be in the rule.

As to the concern noted regarding the respondent’s represented organizations’ having reported inconsistent reimbursement policies from Iowa Medicaid for telehealth services, specifics were not provided in this regard.

The respondent’s comment also mentioned the need to include in rule language specifying store-and-forward technology and remote monitoring and real-time observation as examples of telehealth services, consistent with Iowa Board of Medicine (IBoM) rules defining different telemedicine technologies under 653—subrule 13.11(1). As is noted in the responses to the

additional comments below, the Department has revised the rule to include a general reference to rule 653—13.11(147,148,272C), which is IBoM’s rule regarding telemedicine.

Lastly, the respondent suggested that the rule should make clear that all provider types are included under the rule. The Department does not believe a change to the rule in this regard is necessary since the rule is a stand-alone rule under Chapter 78.

Respondent 2’s comments. Respondent 2 stated that as the Department moves forward with the transition to Medicaid managed care, it is imperative that there be consistency in the policy and payment for these services across the four managed care organizations. To ensure consistency in claims processing, the respondent recommended that “telehealth” be clearly defined in the rule and that the definition include that the telehealth technologies of store and forward, remote monitoring, and real-time observation are all appropriate forms of telehealth services for the purposes of provider payment. The respondent encouraged the Department to adopt a definition that includes those three technologies and is consistent with Iowa Administrative Code 653—subrule 13.11(1).

Department response to Respondent 2’s comments. As noted above in the response to the previous comment, the legislative mandate does specify a standard for telehealth coverage. The Department believes that this standard would be consistent with the telemedicine rule of the Iowa Board of Medicine (IBoM) (i.e., 653—13.11(147,148,272C)). The Department notes that subrule 13.11(1) of the rule is related to definitions associated with telehealth. The Department has revised rule 441—78.55(249A) to add a reference to the IBoM telemedicine rule as follows:

“441—78.55(249A) Services rendered via telehealth. An in-person contact between a health care professional and a patient is not required as a prerequisite for payment for otherwise-covered services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided, as well as being in accordance with provisions under rule 653—13.11(147,148,272C). Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.”

Adding a reference to rule 653—13.11(147,148,272C) in the Department’s adopted rule incorporates by reference the entire rule, including subrule 13.11(1), and as such addresses the different types of technologies as mentioned by the respondents.

Respondent 3’s comments. Respondent 3 stated that telehealth is a critical tool as the system moves toward integrated, person-centered, outcome-driven health care. The respondent stated that many providers rely on telehealth to deliver the best services possible for the individuals they serve and that the rule is a step in the right direction and will help achieve the overall goal of health care transformation. The respondent was also seeking confirmation that the rule is for all Medicaid-covered services, including substance use disorder and other behavioral health services.

Department response to Respondent 3’s comments. The Department notes that telehealth services (i.e., telepsychiatry services) have been available under the Iowa Plan for Behavioral Health, which has been administered by Magellan Behavioral Care of Iowa. As noted in the Department’s responses to the preceding comments, the coverage standard would be that specified by the Legislature. The addition, as noted above, of the reference to the IBoM’s rule 653—13.11(147,148,272C) regarding telemedicine addresses the use of telemedicine for substance use disorder and other behavioral health services.

In addition to the change described above, one additional change has been made to rule 441—78.55(249A). Specifically, an implementation sentence, which simply cites the particular statute the rule is intended to implement, has been added at the end of the rule.

The Council on Human Services adopted this amendment on September 9, 2015.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and 2015 Iowa Acts, Senate File 505, division V, section 12(23).

This amendment will become effective November 4, 2015.

The following amendment is adopted.

Adopt the following new rule 441—78.55(249A):

441—78.55(249A) Services rendered via telehealth. An in-person contact between a health care professional and a patient is not required as a prerequisite for payment for otherwise-covered services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided, as well as being in accordance with provisions under rule 653—13.11(147,148,272C). Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

This rule is intended to implement Iowa Code section 249A.4 and 2015 Iowa Acts, Senate File 505, division V, section 12(23).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/30/15.