

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-27. Telehealth

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Distant site"** means the location of the provider of the professional service being performed via telehealth.

(2) **"Originating site"** means the location of the SoonerCare member at the time a telehealth service is being performed by an eligible contracted provider.

~~(1)(3)~~ **"Remote patient monitoring"** means the use of digital technologies to collect medical and other forms of health data (e.g., vital signs, weight, blood pressure, blood sugar) from individuals in one (1) location and electronically transmit that information securely to health care providers in a different location for assessment and recommendations.

~~(2) "School-based services" means medically necessary health-related and rehabilitative services that are provided by a qualified school provider to a student under the age of twenty-one (21), pursuant to an Individualized Education Program (IEP), in accordance with the Individuals with Disabilities Education Act. See Oklahoma Administrative Code (OAC) 317:30-5-1020.~~

~~(3)(4)~~ **"Store and forward technologies"** means the transmission of a patient's medical information from an originating site to the health care provider at the distant site; provided, photographs visualized by a telecommunications system shall be specific to the patient's medical condition and adequate for furnishing or confirming a diagnosis or treatment plan. Store and forward technologies shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference, or facsimile transmission.

~~(4)(5)~~ **"Telehealth"** means the practice of health care delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information by means of a two-way, real-time interactive communication, not to exclude store and forward technologies, between a patient and a healthcare provider with access to and reviewing the patient's relevant clinical information prior to the telemedicine visit. Telehealth shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference, or facsimile transmission. For audio-only health service delivery, see OAC 317:30-3-27.1.

~~(5)(6)~~ **"Telehealth medical service"** means, for the purpose of the notification requirements of OAC 317:30-3-27(d)(2), telehealth services that expressly do not include physical therapy, occupational therapy, and/or speech and hearing services.

(b) Applicability and scope. The purpose of this Section is to implement telehealth policy that improves access to healthcare services, while complying with all applicable state and federal laws and regulations. Telehealth services are not an expansion of SoonerCare-covered services, but an option for the delivery of certain covered services. However, if there are technological difficulties in performing an objective, thorough medical assessment, or problems in the member's understanding of telehealth, hands-on-assessment and/or in-person care must be provided for the member. Any service delivered using telehealth technology must be appropriate for telehealth delivery and be of the same quality and otherwise on par with the same service delivered in person. A telehealth encounter must maintain the confidentiality and security of protected health information in accordance with applicable state and federal law, including, but not limited to, 42 Code of Federal Regulations (CFR) Part 2, 45 CFR Parts 160 and 164, and 43A Oklahoma Statutes (O.S.) § 1-109. For purposes of SoonerCare reimbursement, telehealth is the use of interactive audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment that occurs in real-time and when the member is actively participating during the transmission.

(c) Requirements. The following requirements apply to all services rendered via telehealth.

(1) Interactive audio and video telecommunications must be used, permitting encrypted, real-time communication between the physician or practitioner and the SoonerCare member. The telecommunication service must be secure and adequate to protect the confidentiality and integrity of the telehealth information transmitted. As a condition of payment the member must actively participate in the telehealth visit.

(2) The telehealth equipment and transmission speed and image must be technically sufficient to support the service billed. If a peripheral diagnostic scope is required to assess the member, it must provide adequate resolution or audio quality for decision making. Staff involved in the telehealth visit need to be trained in the use of the telehealth equipment and competent in its operation.

(3) The medical or behavioral health related service must be provided at an appropriate site for the delivery of telehealth services. An appropriate telehealth site is one that has the proper security measures in place; the appropriate administrative, physical, and technical safeguards should be in place that ensures the confidentiality, integrity, and security of electronic protected health information. The location of the room for the encounter at both ends should ensure comfort, privacy, and confidentiality. Both visual and audio privacy are important, and the placement and selection of the rooms should consider this.

Appropriate telehealth equipment and networks must be used considering factors such as appropriate screen size, resolution, and security. Providers and/or members may provide or receive telehealth services outside of Oklahoma when medically necessary; however, prior authorization may be required, per OAC 317:30-3-89 through 317:30-3-91.

(4) The provider must be contracted with SoonerCare and appropriately licensed or certified, in good standing. Services that are provided must be within the scope of the practitioner's license or certification. If the provider is outside of Oklahoma, the provider must comply with all laws and regulations of the provider's location, including health care and telehealth requirements.

(5) If the member is a minor, the provider must obtain the prior written consent of the member's parent or legal guardian to provide services via telehealth, that includes, at a minimum, the name of the provider; the provider's permanent business office address and

telephone number; an explanation of the services to be provided, including the type, frequency, and duration of services. Written consent must be obtained annually, or whenever there is a change in the information in the written consent form, as set forth above. The parent or legal guardian need not attend the telehealth session unless attendance is therapeutically appropriate. The requirements of subsection OAC 317:30-3-27(c)(5), however, do not apply to telehealth services provided in a primary or secondary school setting, for telehealth requirements for school settings refer to OAC 317:30-5-1020.

(6) If the member is a minor, the telehealth provider shall notify the parent or legal guardian that a telehealth service was performed on the minor through electronic communication whether a text message or email.

(7) The member retains the right to withdraw at any time.

(8) All telehealth activities must comply with Oklahoma Health Care Authority (OHCA) policy, and all other applicable State and Federal laws and regulations, including, but not limited to, 59 O.S. § 478.1.

(9) The member has access to all transmitted medical information, with the exception of live interactive video as there is often no stored data in such encounters.

(10) There will be no dissemination of any member images or information to other entities without written consent from the member or member's parent or legal guardian, if the member is a minor.

(11) A telehealth service is subject to the same SoonerCare program restrictions, limitations, and coverage which exist for the service when not provided through telehealth; provided, however, that only certain telehealth codes are reimbursable by SoonerCare. For a list of the SoonerCare-reimbursable telehealth codes, refer to the OHCA's Behavioral Health Telehealth Services and Medical Telehealth Services, available on OHCA's website, www.okhca.org.

(12) Where there are established service limitations, the use of telehealth to deliver those services will count towards meeting those noted limitations. Service limitations may be set forth by Medicaid and/or other third-party payers.

~~(d) **Additional requirements specific to telehealth services in a school setting.** In order for OHCA to reimburse medically necessary telehealth services provided to SoonerCare members in a primary or secondary school setting, all of the requirements in (c) above must be met, with the exception of (c)(5), as well as all of the requirements shown below, as applicable.~~

~~(1) **Consent requirements.** Advance parent or legal guardian consent for telehealth services must be obtained for minors, in accordance with 25 O.S. §§ 2004 through 2005. Additional consent requirements shall apply to school-based services provided pursuant to an IEP, per OAC 317:30-5-1020.~~

~~(2) **Notification requirements.** For telehealth medical services provided in a primary or secondary school setting, the telehealth practitioner must provide a summary of the service, including, but not limited to, information regarding the exam findings, prescribed or administered medications, and patient instructions, to:~~

~~(A) The SoonerCare member, if he or she is an adult, or the member's parent or legal guardian, if the member is a minor; or~~

~~(B) The SoonerCare member's primary care provider, if requested by the member or the member's parent or legal guardian.~~

~~(3) Requirements specific to physical therapy, occupational therapy, and/or speech and hearing services.~~ Even though physical therapy, occupational therapy, and/or speech and hearing services are not subject to the notification requirements of OAC 317:30-3-27(d)(2), said services must still comply with all other State and Federal Medicaid requirements, in order to be reimbursable by Medicaid. Accordingly, for those physical therapy, occupational therapy, and/or speech and hearing services that are provided in a primary or secondary school setting, but that are not school-based services (i.e., not provided pursuant to an IEP), providers must adhere to all state and federal requirements relating to prior authorization and prescription or referral, including, but not limited to, 42 C.F.R. § 440.110, OAC 317:30-5-291, 317:30-5-296, and 317:30-5-676.

(d) Additional requirements for originating sites.

(1) The host facility must provide a suitable physical space with adequate privacy, necessary telecommunications technology and equipment, on-site staff support during the telehealth visit, and adequate medical staff to oversee and coordinate with specialty care.

(2) Physical Space. Telehealth visits must be conducted in an enclosed room or designated clinical area that supports privacy, confidentiality, and safety comparable to an in-person visit. The space must:

- (a) Allow conversations to occur without being overheard by unauthorized individuals;
- (b) Provide adequate lighting and visibility for clinical assessment;
- (c) Be accessible to members with disabilities; and
- (d) Have procedures for responding to medical or behavioral emergencies during telehealth visits.

(3) Staffing. When billing an originating site facility fee, the originating site must have at least one trained staff member on-site during the telehealth encounter to:

- (a) Verify member identity and confirm the member's physical location;
- (b) Assist the member with use of the telehealth equipment and connection, including troubleshooting;
- (c) Provide clinical support within the staff member's scope of practice, when required by the service (e.g., obtaining vital signs, assisting with examination maneuvers); and
- (d) Implement emergency procedures consistent with facility policy.
- (e) Staff must receive training on telehealth workflows, privacy, equipment operation, and emergency escalation.

(4) Equipment and Technology. The originating site must maintain telecommunications equipment sufficient to support real-time, two-way interactive telehealth services, including:

- (a) Reliable internet connectivity;
- (b) A camera, microphone, speakers or headset, and display screen suitable for clinical interaction;
- (c) Peripheral clinical devices, when required by the service; and
- (d) Telehealth software configured to comply with HIPAA privacy and security standards.
- (e) Equipment must be maintained in good working order, and the originating site must have procedures for testing functionality and resolving technical issues.

(5) Documentation. The originating site must document in the member's medical record:

- (a) The date of service and confirmation that the member was physically present at the originating site;

(b) The name and credentials of the distant-site practitioner and the telehealth modality used; and

(c) The name and role of the on-site staff supporting the encounter.

(e) Reimbursement.

(1) Health care services delivered by telehealth such as Remote Patient Monitoring, Store and Forward, or any other telehealth technology, must be compensable by OHCA in order to be reimbursed.

(2) Services provided by telehealth must be billed with the appropriate modifier.

(3) If the technical component of an X-ray, ultrasound or electrocardiogram is performed during a telehealth transmission, the technical component can be billed by the provider that provided that service. The professional component of the procedure and the appropriate visit code should be billed by the provider that rendered that service.

(4) The cost of telehealth equipment and transmission is not reimbursable by SoonerCare.

(5) For reimbursement of audio-only health service delivery, see OAC 317:30-3-27.1.

(6) Originating site facility fee.

(A) The originating site facility fee will reimburse eligible facilities for hosting an appropriate space for specialty physician/practitioner services not reasonably accessible otherwise to be rendered to members via telehealth.

(B) Reimbursement will be made to the site where the member is located during the telehealth visit, when the appropriate telehealth facility fee code is billed. The facility fee shall be paid in accordance with the SoonerCare fee schedule and is separate from the professional service billed by the distant-site provider.

(C) The facility fee code may only be billed once per day, per member and must be directly associated with the provision of a SoonerCare covered service provided by a physician/practitioner.

(D) Eligible originating sites include hospitals, outpatient hospital departments, physician and practitioner offices, rural health clinics (RHCs), federally qualified health centers (FQHCs), Indian health/tribal/urban Indian (I/T/U) clinics, and public health clinics.

(E) OHCA may request documentation substantiating appropriate capabilities of the originating site as required in these rules prior to initiating payment. OHCA may also require substantiation of the distant site service rendered as a condition of payment or during post-payment review.

(F) The facility fee is not reimbursable when the member's home is the originating site or when no staff or facility resources are used to host the telehealth encounter. The facility fee shall not be billed when reasonable alternatives are available to access care, such as visits with providers in close proximity to the originating site or visits for services available at the originating site.

(G) Equipment and transmission costs remain non-reimbursable under paragraph (4) of this subsection.

(f) Documentation.

(1) Documentation must be maintained by the rendering provider to substantiate the services rendered.

- (2) Documentation must indicate the services were rendered via telehealth, and the location of the services.
- (3) All other SoonerCare documentation guidelines apply to the services rendered via telehealth. Examples include but are not limited to:
 - (A) Chart notes;
 - (B) Start and stop times;
 - (C) Service provider's credentials; and
 - (D) Provider's signature.

(g) **Final authority.** The OHCA has discretion and the final authority to approve or deny any telehealth services based on agency and/or SoonerCare members' needs.

317:30-3-27.1 Audio-only health service delivery

(a) **Definition.** "Audio-only health service delivery" means the delivery of healthcare services through the use of audio-only telecommunications, permitting real-time communication between a patient and the provider, for the purpose of diagnosis, consultation, and/or treatment. Audio-only health service delivery does not include the use of facsimile, email, or health care services that are customarily delivered by audio-only telecommunications and not billed as separate services by the provider, such as the sharing of laboratory results. This definition includes health services delivered via audio-only when audio-visual is unavailable or when a member chooses audio-only.

(b) **Purpose.** Health services delivered via audio-only telecommunications are intended to improve access to healthcare services, while complying with all applicable state and federal laws and regulations. Audio-only telecommunications is an option for the delivery of certain covered services and is not an expansion of SoonerCare-covered services.

(c) **Applicability and scope.**

- (1) Health service delivery via audio-only telecommunications is applicable to medically necessary covered primary care and other approved health services. Refer to the Oklahoma Health Care Authority (OHCA) website, www.okhca.org, for a complete list of the SoonerCare-reimbursable audio-only health services codes.
- (2) If there are technological difficulties in performing medical assessment through audio-only telecommunications, then hands-on-assessment and/or in-person care must be provided for the member. Any service delivered using audio-only telecommunications must be appropriate for audio-only delivery and be of the same quality and otherwise on par with the same service delivered in person.
- (3) Confidentiality and security of protected health information in accordance with applicable state and federal law, including, but not limited to, 42 Code of Federal Regulations (CFR) Part 2, 45 CFR Parts 160 and 164, and 43A Oklahoma Statutes (O.S.) § 1-109, must be maintained in the delivery of health services by audio-only telecommunications.
- (4) For purposes of SoonerCare reimbursement, audio-only health service delivery is the use of interactive audio technology for the purpose of diagnosis, consultation, and/or treatment that occurs in real-time and when the member is actively participating during the transmission.

(d) **Requirements.** The following requirements apply to all services rendered via audio-only health service delivery:

- (1) Interactive audio telecommunications must be used, permitting real-time communication between the physician or practitioner and the SoonerCare member. As a condition of payment, the member must actively participate in the audio-only telecommunications health service visit.
- (2) The audio telecommunications technology used to deliver the services must meet the standards required by state and federal laws governing the privacy and security of protected health information (PHI).
- (3) The provider must be contracted with SoonerCare and appropriately licensed and/or certified, and in good standing. Services that are provided must be within the scope of the practitioner's license and/or certification.
- (4) Either the provider or the member must be located at the freestanding clinic that is providing services pursuant to 42 CFR § 440.90 and Oklahoma Administrative Code (OAC) 317:30-5-575.
- (5) If the member is a minor, the provider must obtain the prior written consent of the member's parent or legal guardian to provide services via audio-only telecommunications, that includes, at a minimum, the name of the provider; the provider's permanent business office address and telephone number; and an explanation of the services to be provided, including the type, frequency, and duration of services. Written consent must be obtained annually, or whenever there is a change in the information in the written consent form, as set forth above. The parent or legal guardian need not attend the audio-only telecommunications session unless attendance is therapeutically appropriate.
- (6) The member retains the right to withdraw at any time.
- (7) All audio-only health service delivery activities must comply with Oklahoma Health Care Authority (OHCA) policy, and all other applicable State and Federal laws and regulations.
- (8) A health service delivered via audio-only telecommunications is subject to the same SoonerCare program restrictions, limitations, and coverage which exist for the service when not delivered via audio-only telecommunications.
- (9) A health service delivered by audio-only telecommunications must be designated for reimbursement by SoonerCare.
- (10) Where there are established service limitations, the use of audio-only telecommunications to deliver those services will count towards meeting those noted limitations. Service limitations may be set forth by Medicaid and/or other third-party payers.

(e) Reimbursement.

- (1) Health care services delivered via audio-only telecommunications must be compensable by OHCA in order to be reimbursed.
- (2) Services delivered via audio-only telecommunications must be billed with the appropriate modifier.
- (3) Health care services delivered via audio-only telecommunications are reimbursed pursuant to the fee-for-service fee schedule approved under the Oklahoma Medicaid State Plan.
- (4) An RHC and an FQHC shall be reimbursed for services delivered via audio-only telecommunications at the fee-for-service rate per the fee-for-service fee schedule.

- (5) An I/T/U shall be reimbursed for services delivered via audio-only telecommunications at the Office of Management and Budget (OMB) all-inclusive rate.
- (6) The cost of audio-only telecommunication equipment and other service related costs are not reimbursable by SoonerCare.

(f) Documentation.

- (1) Documentation must be maintained by the rendering provider to substantiate the services rendered.
- (2) Documentation must indicate the services were rendered via audio-only telecommunications, and the location of the services.
- (3) All other SoonerCare documentation guidelines apply to the services rendered via audio-only telecommunications. Examples include but are not limited to:
 - (A) Chart notes;
 - (B) Start and stop times;
 - (C) Service provider's credentials; and
 - (D) Provider's signature.

(g) Final authority. The OHCA has discretion and final authority to approve or deny any services delivered via audio-only telecommunications based on agency and/or SoonerCare members' needs.