

Telehealth and Work Comp in Montana – FAQs

Background

Telehealth-based delivery of care is available in the Montana workers' compensation system, for use at the discretion of the treating provider. To facilitate the safe delivery of health care services to patients throughout the COVID-19 state of emergency, the Montana Department of Labor & Industry previously communicated temporary changes to the approach to telemedicine during the COVID-19 pandemic. These changes were based on the guidance contained in the March 20, 2020 [Directive Implementing Executive Orders 2-2020 and 3-2020](#) providing for expanded telemedicine and the Centers for Medicare & Medicaid Services (CMS) [1135 waiver](#).

Recent Updates

On April 19, 2021, Governor Gianforte signed into law [House Bill 43](#) (HB 43), which becomes effective on January 1, 2022. This bill generally revises laws relating to telehealth, several of which are relevant to workers' compensation care.

The Department wants to keep our customers apprised of the following changes regarding telehealth:

- 1) Expansion of the telehealth definition to include audio, video, or other telecommunications technology or media, including audio-only communication.
- 2) Elimination of a rural/urban distinction for the use of telehealth services.
- 3) Removal of a requirement for an in-person patient and healthcare provider encounter prior to initiating telehealth.
- 4) The dissemination of billing codes to provide reimbursement for telehealth-based services.

How does HB 43 impact the delivery of workers' compensation care in Montana?

HB 43 eliminates delivery site restrictions on telehealth, including a rural and urban distinction; removes the requirement that an established patient-health care provider relationship exists prior to receipt of telehealth services; and revises the definition of telemedicine. HB 43 also defines telehealth and telemedicine to include audio-only communication and states telehealth should be delivered over a secure connection that complies with state and federal privacy laws.

What platforms are acceptable forms of communication?

The patient and provider may communicate by their personal telephone, computer or other electronic device using communication technologies such as Facetime or Skype, provided the services are delivered over a secure connection that complies with state and federal privacy laws, as per HB 43.

Under what circumstances might I use telehealth-based care in workers' compensation?

Telehealth-based care may be suited for triage, initial injury or urgent evaluation on an on-demand basis, follow-up injury care, psychiatric/psychological services, return to work evaluations, and medication management, among others, provided the services meet the clinical standards of care set forth by the healthcare provider specialty board. The workers' compensation provider performing a telehealth visit must satisfy the criteria for objective medical findings of an occupational injury, accident, or disease, as outlined in MCA [39-71-119\(1\)\(a\)](#) and [39-71-407\(3\),\(12\)](#). Objective medical findings are defined in [24.29.1401A\(27\)](#).

Are there specific requirements for the patient or provider location?

It is acceptable to use telemedicine to facilitate live contact between a patient and their provider. Services can be provided between a patient and a distant provider when a patient is in their home or other location of their choice. Similarly, the provider may participate from any appropriate location, provided the services are delivered over a secure connection that complies with state and federal privacy laws, as per HB 43, and the provider is licensed in Montana, as per [MCA 37-3-102](#).

How should I bill for a telehealth-based visit?

The American Medical Association (AMA) and Centers for Medicare and Medicaid Services (CMS) created and approved a list of codes for telehealth services. CMS also created a list of codes for temporary use during the COVID-19 pandemic. The [List of Telehealth Services](#) is available on the CMS website. Per AMA Guidelines, as well as our own, a provider is to use the correct code for the services provided. For questions regarding coding, please contact Celeste Ackerman at 406.444.6543.

Aside from seeing the provider remotely, are there other differences from an in-person encounter?

The documentation requirements are the same for a telehealth-based visit as they are for an in-person visit. The provider should adhere to the same standards of medical care as those of an in-person encounter. A provider can prescribe medications in the same way they do at an office visit during the public health emergency while the 1135 waiver is in effect. Upon 1135 waiver expiration, prescribers must prescribe schedule II medications in accordance with [ARM 24.156.813](#). The provider must document the patient's consent, either verbal or written, to receive telehealth services. The use of telehealth or telemedicine does not change the prior authorization requirements. Confidentiality requirements are the same as for in-person care. Recordkeeping and patient privacy standards should comply with state and federal privacy laws and satisfy Medicaid requirements. Telehealth providers should use modifier 95 and a place of service code 02 when billing for telehealth services.

Where can I find additional information about the Centers for Medicare & Medicaid Services (CMS) statement on telehealth services?

CMS provides a [health care provider fact sheet](#) and a [frequently asked questions](#) document on their website.

Dated July 19, 2021