

# WELL-AHEAD



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## Telemedicine Regulation and Billing for RHCs and FQHCs

April 8, 2020 | 12:00PM

*\* Information presented is current as of the date and time of the presentation. All information presented is subject to change, especially information regarding COVID-19 waivers and changes. \**

Louisiana's Health Initiative



# Links & Questions

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For more information, visit [www.walpen.org/covid-19](http://www.walpen.org/covid-19).

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# Presenters & Support

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# Agenda

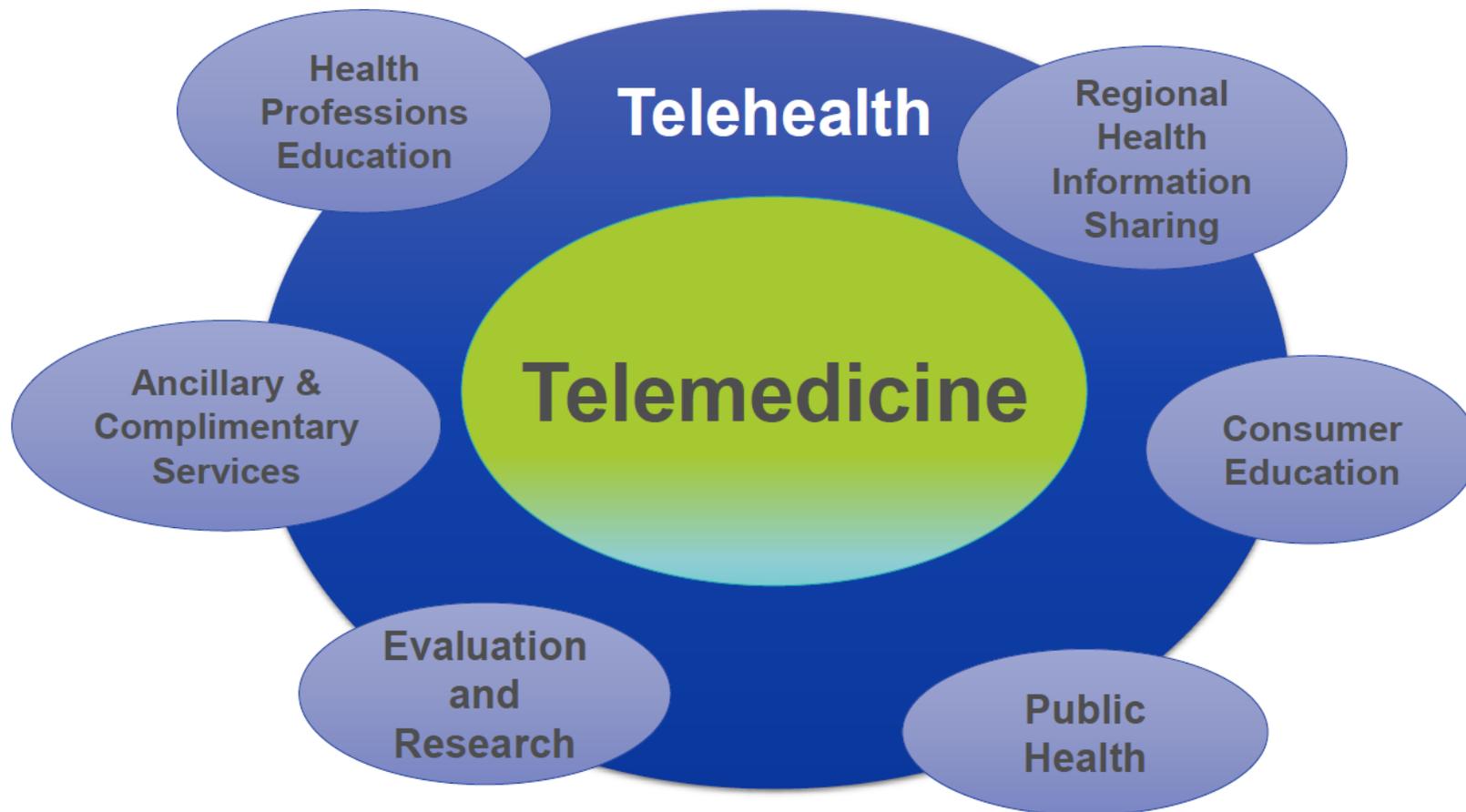
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- Telemedicine/Telehealth Overview
- Legal & Regulatory Considerations
  - Including COVID-19 Waivers & Changes
- Types of Telemedicine
- RHCs/FQHCs Telehealth Services
  - Medicare
  - Louisiana Medicaid
  - Private Insurance
- Question & Answer Session

# TELEMEDICINE/TELEHEALTH OVERVIEW

# Telemedicine/Telehealth Overview

## Telehealth vs. Telemedicine





# Telemedicine/Telehealth Overview

## Definitions

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- **Telehealth:** the use of digital technologies to deliver medical care, health education, and public health services by connecting multiple users in separate locations; a broad definition of technology-enabled health care services.\*
- **Telemedicine:** the use of medical information exchanged from one site to another via electronic communications to improve a patient's clinical health status; clinical care from a distance
  - **Distant Site:** Site at which the physician or other licensed practitioner delivering the service is located at the time the service is provided via telecommunications system.
  - **Originating Site:** Location of the patient at the time the service being furnished via telecommunications system occurs

\* Medicare often uses “telehealth” to describe live audio-visual clinical encounter



# Telemedicine/Telehealth Overview

## Philosophy

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Telemedicine is a tool – a method of delivery.

It does not, and should not, alter the practice of  
medicine.

# **LEGAL & REGULATORY CONSIDERATIONS**



# IMPORTANT NOTE

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Federal laws and regulations do not always supersede state laws and regulations.

Usually, the stricter rule is the one that must be followed.



# Legal & Regulatory Considerations

## Standard of Care

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- **LA RS 37:1271**
- Services provided by telemedicine must meet the same standard of care as services provided in person



# Legal & Regulatory Considerations

## Licensing

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- Louisiana law allows all currently licensed healthcare professionals to provide telemedicine services
  - Verify what is allowed by your licensing board



# Legal & Regulatory Considerations

## Informed Consent

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- For services provided via telemedicine, Louisiana Law (LAC 46:XLV.7511) requires that “in addition to any informed consent and right to privacy and confidentiality that may be required by state or federal law or regulation, a physician shall insure that each patient to whom he or she provides medical services by telemedicine is:
  - Informed of the relationship between the physician and patient and the respective role of any other health care provider with respect to management of the patient; and
  - Notified that he or she may decline to receive medical services by telemedicine and may withdraw from such care at any time.”
- Consent information should include the risks of telemedicine, including delays, equipment failures, and security breaches. Patients should also be provided sufficient information to adequately address and explain the limitations of computer technology.
- Consent should be written with signature and conducted via oral acknowledgment and noted in the patient’s medical record for the telemedicine visit.



# Legal & Regulatory Considerations

## HIPAA

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- HIPAA applies to telehealth encounters and all requisite safeguards must be in place – use a HIPAA compliant software, have the company sign a BAA
  - COVID-19 UPDATE: Effective 3/17/2020 OCR will waive penalties for HIPAA violations for providers who utilize everyday technology during COVID-19.
- Physicians that communicate with patients by electronic means other than telephone or facsimile must provide patients with written notification of the physicians' privacy practices prior to evaluation or treatment. In addition, a good faith effort must be made to obtain the patient's written acknowledgment, including by e-mail, of the notice.



# Legal & Regulatory Considerations

## Documentation

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- Must maintain clinical documentation at the same standard as in-person visit
- Document verbal consent for telemedicine services
- Document mode of delivery
  - “Patient presented via live audio/video telehealth connection”
  - COVID-19 UPDATE: Effective 3/17/2020, Medicaid will reimburse audio-only in cases where an interactive audio/video system is not immediately available at the time it is needed. Document in medical record why audio-only was required.

# TYPES OF TELEMEDICINE

# Types of Telemedicine

## MEDICARE

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- **Telehealth Visit**

- Live audio-visual visit
- RHCs/FQHCs qualify to serve as the originating site but not the distant site
- **COVID-19 UPDATE: CARES Act (3/27/2020) allows RHCs/FQHCs to serve as distant for COVID-19, pending further guidance on billing and reimbursement**

- **Virtual Communication Services**

- Specific code for RHCs/FQHCs
- Includes Virtual Check In codes (not considered “telehealth” services by Medicare)
- **COVID-19 UPDATE: Medicare is now (eff. 3/1/2020) covering e-visits (communication via patient portal) under Virtual Communication Services**

- **Chronic Care Management**

- Covered in addition to the encounter rate (monthly per patient)

- **Store & Forward, Remote Patient Monitoring, E-Consults, Audio-Only Visits (CPT codes 98966-98968 and 99441-99443)**

- Medicare does not cover these services for RHCs/FQHCs

# Types of Telemedicine Louisiana MEDICAID

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- **Telemedicine Visit**
  - Live audio-visual visit
  - Covered at all-inclusive rate
- **Audio-Only**
  - Usually not covered by Medicaid
  - **COVID-19 UPDATE: Effective 3/17/2020, can be utilized in cases where an interactive audio/video system is not immediately available at the time it is needed. Document in medical record and bill as telemedicine.**
- **Store & Forward, Chronic Care Management, Remote Patient Monitoring, & E-Consults**
  - RHCs/FQHCs cannot currently get paid for these services

# **RHCS/FQHCS TELEHEALTH SERVICES MEDICARE**



# Visit Types

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- Virtual Communication Services
  - Virtual Check In
  - E-Visits (COVID-19 only)
- Telehealth Visits

# Visit Types

VIRTUAL COMMUNICATION SERVICES		TELEHEALTH VISITS
VIRTUAL CHECK INS	E-VISITS	
5 Minute (minimum) check-in where patient contacts provider, presents problem, and provider decides if visit is needed.	5 Minute (minimum) VISIT where patient contacts PROVIDER through PATIENT PORTAL AND provider evaluates, plans or provides treatment.	A Patient-PROVIDER visit using a live audio-visual Telecommunications System.  A Telehealth Visit replaces a Face-to-Face Visit.



# Virtual Communication Services

## Virtual Check In

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- Minimum 5-minute check in with PROVIDER by PHONE or other telecommunications device to decide if an office visit or other service is needed
  - By phone or other Telecommunications Device
  - EXAMPLE 1: Patient calls into clinic with sinus drainage and fever of 101 and speaks to PROVIDER
    - Provider decides if a visit (a Face-to-Face Encounter is needed)
  - EXAMPLE 2: Patient calls into clinic and says that she has a sore throat, and that she sees “white spots” on the back of her throat when looking in mirror
    - Provider evaluates a PHOTOGRAPH or VIDEO and PROVIDER evaluates remotely



# Virtual Check In

## What you need to know:

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- In order to get paid:
  - The Virtual Check In must not be related to a billable RHC/FQHC VISIT that occurred with the previous 7-day period.
  - The Medical Discussion or Evaluation must not lead to an RHC or FQHC Visit within the next 24 Hours, nor at the NEXT AVAILABLE APPOINTMENT.



# Virtual Check In

## What you need to know:

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- A Virtual Check In is NOT A SUBSTITUTE FOR A VISIT
  - It is a BRIEF discussion with PROVIDER to determine if a visit is necessary.
- If the brief discussion results in a BILLABLE VISIT, then the usual RHC/FQHC billing would occur
- The Virtual Check In would only be separately payable if the discussion between patient and provider does not LEAD TO, nor RESULT FROM, an RHC/FQHC billable visit
- Payment rate is based on shorter duration of time and communication technology efficiency
- Must be initiated by an established patient (*SEE COVID UPDATES*)
- Co-pays and deductibles apply (*SEE COVID UPDATES*)

# Virtual Check In

## How to Bill:

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CLAIM FORM	REVENUE CODE	CODE	MODIFER
UB-04	0521	<b>G0071</b>	NONE



# Virtual Check In COVID-19 UPDATE

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- During the emergency period, CMS will not audit for the existence of an established relationship
  - ESTABLISHED or NEW PATIENTS
- During the emergency period, Medicare co-insurance can be **WAIVED (LAWFULLY)**
- Reimbursement rate will be temporarily updated to reflect the addition of e-visits under this code (G0071)



# Virtual Communication Services

## E-Visits

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- Minimum 5-minute communication with PROVIDER by patient portal where PROVIDER evaluates and manages a problem not related to a problem managed during visit from within the past 7 days
  - EXAMPLE 1: Patient is having problems with blood sugar levels.
    - Patient writes into the PATIENT PORTAL MESSAGING SYSTEM that he/she is having concerns with blood sugar levels.
      - Provider responds, has a messaged discussion (minimum 5 minutes) through either the system, or he calls the patient, and based on that discussion, increases the dose on the patient's medication.
  - EXAMPLE 2: Patient is having problems with blood pressure
    - Patient calls the clinic by phone and asks for returned call from provider. Provider returns patient call, they have a 5-minute discussion (at minimum), he/she evaluates and changes treatment plan.

# E-Visits

## What you need to know:

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- For Digital E-Visits, there is a “7-day CLOCK” that runs.



# E-Visits

## What you need to know:

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- In order to get paid:
  - The Digital E-Visit cannot be a follow-up from a Face-to-Face Visit within the past 7 days (FOR THE SAME PROBLEM)
    - If there is a NEW PROBLEM, then the facility may bill.
- **EXAMPLE:**
  - An RHC/FQHC Visit/Encounter occurred on Monday April 6<sup>th</sup> relating to problems associated with blood sugar levels.
    - If patient responds with additional calls or messaging related to his/her blood sugar levels on Wednesday April 8<sup>th</sup>, then you cannot bill for a digital e-visit.
    - If the patient communicates, however, on Monday April 13<sup>th</sup>, (7 or more days later, even about the same problem), this can be billed.



# E-Visits

## What you need to know:

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- A Digital E-Visit is **NOT A SUBSTITUTE FOR A VISIT**
  - It is a BRIEF discussion (through the patient portal) with PROVIDER so that the provider can evaluate and treat as is applicable.
- Must be initiated by an established patient (*SEE COVID UPDATES*)
- Normally not covered for RHCs/FQHCs (*SEE COVID UPDATES*)



# E-Visits

## COVID-19 UPDATE

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- E-visits are added under the Virtual Communication Services code (G0071) – reimbursement rate will be temporarily updated
- During the emergency period, CMS will not audit for the existence of an established relationship
  - ESTABLISHED or NEW PATIENTS
- During the emergency period, Medicare co-insurance can be **WAIVED (LAWFULLY)**

# E-Visit How to Bill:

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<b>CLAIM FORM</b>	<b>REVENUE CODE</b>	<b>CODE</b>	<b>MODIFER</b>
UB-04	0521	<b>G0071</b>	NONE



# Telehealth Visits

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- A Patient-Provider Visit Using a live audio-visual Telecommunications System.
- Require the use of INTERACTIVE, REAL TIME, AUDIO/VIDEO CONNECTION.
- ***A “Substitute” for an IN-PERSON VISIT***
  - A MEDICARE Telehealth Visit Cannot Be AUDIO ONLY

# RHC/FQHC Visit Definition

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## **40 - RHC and FQHC Visits**

**(Rev. 239, Issued: 01-09-18, Effective: 1-22-18, Implementation: 1-22-18)**

An RHC or FQHC visit is a medically-necessary medical or mental health visit, or a qualified preventive health visit. The visit must be a face-to-face (one-on-one) encounter between the patient and a physician, NP, PA, CNM, CP, or a CSW during which time one or more RHC or FQHC services are rendered. A Transitional Care Management (TCM) service can also be an RHC or FQHC visit. Services furnished must be within the practitioner's state scope of practice, and only services that require the skill level of the RHC or FQHC practitioner are considered RHC or FQHC visits.

An RHC or FQHC visit can also be a visit between a home-bound patient and an RN or LPN under certain conditions. See section 190 of this chapter for information on visiting nursing services to home-bound patients.

Under certain conditions, an FQHC visit also may be provided by qualified practitioners of outpatient DSMT and MNT when the FQHC meets the relevant program requirements for provision of these services.

RHC and FQHC visits are typically evaluation and management (E/M) type of services or screenings for certain preventive services. A list of qualifying visits for FQHCs is located on the FQHC web page at <https://www.cms.gov/Center/Provider-Type/Federally-Qualified-Health-Centers-FQHC-Center.html>.



# Telehealth Visits

## COVID-19 UPDATE

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- As of March 27, 2020, RHCs and FQHCs can be paid for a **DISTANT SITE TELEHEALTH VISIT**
  - During Non-Emergency Periods, RHC/FQHC can only be paid as **ORIGINATING SITE**
  - Distant site reimbursement amount is not clear yet, **WILL NOT** be the FQHC PPS nor the RHC All Inclusive Encounter Rate
- During the emergency period, Medicare co-insurance can be **WAIVED (LAWFULLY)**
- HIPAA will waive penalties for use of non-compliant software (used in good faith) if compliant software not available
  - Reasonable measures must be taken to assure privacy/PHI security
- Associated costs **CANNOT** be used to set Encounter Rate

# MEDICARE Telehealth Visits

## COVID-19 UPDATE

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- During the emergency period, CMS will not audit for the existence of an established relationship
  - ESTABLISHED or NEW PATIENTS
- The patient does not have to be at a qualified originating site; patient can be at:
  - Home
  - Wal-Mart Parking Lot in their Car
  - Anywhere
    - Does not have to be in a Rural area

**RHCS/FQHCS TELEHEALTH SERVICES  
LOUISIANA MEDICAID**



# Louisiana MEDICAID Telehealth Visit

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- **Overall Telemedicine/Telehealth Policy**
  - Louisiana Medicaid encourages the use of telemedicine/telehealth, when appropriate, for any & all healthcare services (i.e., not just those related to COVID-19 symptoms).
  - Louisiana Medicaid, including all Medicaid MCOs, allows for the telemedicine/telehealth mode of delivery for many common healthcare services.
  - When otherwise covered by Louisiana Medicaid, telemedicine/telehealth is allowed for all CPT codes located in Appendix P of the CPT manual (relevant codes listed below).



# Louisiana MEDICAID Telehealth Visit

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- **Permissible Telecommunications Systems:**

- All services eligible for telemedicine/telehealth may be delivered via an interactive audio/video telecommunications system.
- A secure, HIPAA compliant platform is preferred, if available.
  - However, for the duration of the COVID-19 event, if a HIPAA-compliant system is not immediately available at the time it is needed, providers may use everyday communications technologies such as cellular phones with widely available audio/video communication software.



# Louisiana MEDICAID Telehealth Visit

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- **Permissible Telecommunications Systems:**

- For the duration of the COVID-19 event, in cases where an interactive audio/video system is not immediately available at the time it is needed:
  - an interactive audio-only system (e.g., telephone) without the requirement of video may be employed, unless noted otherwise.
    - For use of an audio-only system, the same standard of care must be met, and the need and rationale for employing an audio-only system must be documented in the clinical record.
    - Please note, some telemedicine/telehealth services require delivery through an audio/video system due to the clinical nature of these services.



# Louisiana MEDICAID Telehealth Visit

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- **Billing Instructions for RHCs/FQHCs:**
  - Providers must indicate place of service 02 and append modifier -95 on the header and on all detailed service lines.
  - Services delivered via an audio/video system and via and audio-only system should be coded this same way.
  - Reimbursement for these services in an FQHC/RHC will be at the all-inclusive prospective payment rate on file for the date of service.

**RHCS/FQHCS TELEHEALTH SERVICES  
PRIVATE INSURANCE**

# Private Insurance

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- Louisiana has parity law stating that private insurance providers cannot deny payment to physician for service otherwise covered if provided via telemedicine (if appropriate)
- **RS 22:1821(F):** The payment, benefit, or reimbursement to such a licensed physician at the originating facility or terminus shall not be less than seventy-five percent of the reasonable and customary amount of payment, benefit, or reimbursement which that licensed physician receives for an intermediate office visit.
- *EXCEPTION: Employer self-funded plans are protected by Employee Retirement Income Security Act of 1974 (ERISA) and not under state jurisdiction.*

**Questions?**

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