

Maine Telehealth Regulations

Frequently Asked Questions

Q: What are “Telehealth Services?”

A: The use of information technology by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment. Telehealth Services may be either Telephonic or Interactive (combined video/audio).¹

Q: Who is a “HealthCare Provider?”

A: Individual or entity licensed or certified under the laws of the state of Maine to provide medical or behavioral health services to MaineCare Members (children). Health Care Providers must be enrolled as MaineCare Providers in order to be reimbursed for services.²

Q: What are “Interactive TeleHealth Services?”

A: Real time, interactive visual and audio telecommunications whereby a child and a Health Care Provider interact remotely through the use of technology.³

Q: What are Telephonic Services?

A: The use of telephone communication by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment.⁴

Q: What Interactive Telehealth Services are covered by MaineCare?

A: Any medically necessary MaineCare Covered Service may be delivered via Interactive Telehealth Services, provided the following requirements are met:

- The child is otherwise eligible for the Covered Service, as described in the appropriate section of the MaineCare Benefits Manual; and
- The Covered Service delivered by Interactive Telehealth Services is of comparable quality to what it would be were it delivered in person.⁵

Q: Is Prior Authorization required for Interactive Telehealth Services?

A: Prior authorization is required for Interactive Telehealth Services only if prior authorization is required for the underlying Covered Service. In these cases, the prior authorization is the usual prior authorization for the underlying Covered Service, rather than prior authorization of the mode of delivery. A face to face encounter prior to telehealth is not required.⁶

¹ 10-144 Chapter 101, Ch. 1, §4.01-10

² 10-144 Chapter 101, Ch. 1, §4.01-2

³ 10-144 Chapter 101, Ch. 1, §4.01-9

⁴ 10-144 Chapter 101, Ch. 1, §4.01-12

⁵ 10-144 Chapter 101, Ch. 1, §4.04-1

⁶ Id.

Q: Are Telephonic Services covered by MaineCare?

A: Yes, if the following conditions are met:

- Interactive Telehealth Services are unavailable; and
- A Telephonic Service is medically appropriate for the underlying Covered Service.⁷

Q: What are the requirements of a Provider (school) to deliver Telehealth services?

A:

- Acting within the scope of his or her license⁸;
- Enrolled as a MaineCare provider; and
- Otherwise eligible to deliver the underlying Covered Service according to the requirements of the applicable section of the MaineCare Benefits Manual.⁹

Q: What are some other factors that must be considered in the use of Telehealth Services?

A:

- Sufficiency of Technology;¹⁰
- Security;¹¹
- E-mail prohibited;¹²
- Purchase, installation, maintenance and transmission costs.¹³

Q: What is the Sufficiency of Technology factor?

A: Health Care Providers must ensure that the telecommunication technology and equipment used at the Receiving (Provider) Site and the Originating (child) Site is sufficient to allow the Health Care Provider to appropriately provide the child with services billed to MaineCare.¹⁴

⁷ 10-144 Chapter 101, Ch. 1, §4.04-2

⁸ While the regulation does not specifically address “within the scope of practice” of an institutional provider and speaks of providers in the first person, it might be safely assumed that practitioners who work on behalf of the institutional provider must provide services within the practitioners’ respective scope of practice.

⁹ 10-144 Chapter 101, Ch. 1, §4.03-1

¹⁰ 10-144 Chapter 101, Ch. 1, §4.06-1.A

¹¹ 10-144 Chapter 101, Ch. 1, §4.06-1.B

¹² 10-144 Chapter 101, Ch. 1, §4.06-1.C

¹³ 10-144 Chapter 101, Ch. 1, §4.06-1.D

¹⁴ 10-144 Chapter 101, Ch. 1, §4.06-1.A

Q: What are the Security Factors?

A:

- Providers must comply with all federal, state and local regulations that apply to its business including but not limited to the Electronic Communications Privacy Act of 1986. Any services that use networked services must comply with HIPAA requirements.
- A Telehealth Service shall be performed on a secure telecommunications line or utilize a method of encryption adequate to protect the confidentiality and integrity of the Telehealth Service information in accordance with State and Federal laws, rules and regulations.
- Both the Originating (child) Site and the Receiving (Provider) Site shall use authentication and identification to ensure the confidentiality of a Telehealth Service.
- A Health Care Provider shall implement confidentiality protocols that include:
 - Identifying personnel who have access to a telehealth transmission;
 - Usage of unique passwords or identifiers for each employee or person with access to a telehealth transmission; and
 - Preventing unauthorized access to a telehealth transmission.
- A Health Care Provider's protocols and guidelines shall be available for inspection by the Department upon request.¹⁵

Q: May services be delivered via e-mail?

A: No.¹⁶

Q: Will the Department separately reimburse for any charge related to the purchase, installation, or maintenance of telehealth equipment or technology, or any transmission fees?

A: No.¹⁷

Q: Before providing a Telehealth Service to a child, must written notice be provided to the child?

A: Yes. Before providing a Telehealth Service to a child,¹⁸ a Health Care Provider shall ensure that the following written information is provided to the child in a format and manner that the child is able to understand:

- A description of the Telehealth Services and what to expect;
- An explanation that use of Telehealth Services is voluntary. The child shall have the option to refuse the Telehealth Services at any time without affecting the right to future care or treatment and without risking the loss or withdrawal of a MaineCare benefit to which the child is entitled;
- An explanation that MaineCare will pay for the child's transportation to MaineCare Covered Services pursuant to Section 113 of the MaineCare Benefits Manual (Non-Emergency Transportation Services);
- An explanation that the child shall have access to all information resulting from the Telehealth Service as provided by law;

¹⁵ 10-144 Chapter 101, Ch. 1, §4.06-1.B

¹⁶ 10-144 Chapter 101, Ch. 1, §4.06-1.C

¹⁷ 10-144 Chapter 101, Ch. 1, §4.06-1.D

¹⁸ Under the IDEA, it is likely that the notice needs to be provided to the parent/guardian.

- The dissemination, storage, or retention of an identifiable child image or other information from the Telehealth Service shall comply with federal laws and regulations and Maine state laws and regulations requiring individual health care data confidentiality;
- The child shall have the right to be informed of the parties who will be present at the Receiving (Provider) Site and the Originating (child) Site during the Telehealth Service and shall have the right to exclude anyone from either site; and
- The child shall have the right to object to the videotaping or other recording of a Telehealth Consultation.¹⁹

Prior to the provision of any Telehealth Service, the Health Care Provider shall document that it has provided the educational information (set forth above) to the child and obtain the child’s written informed consent to the receipt of Telehealth Services. A copy of the signed informed consent shall be retained in the child’s medical record and provided to the child or the child's legally-authorized representative upon request.²⁰

Q: What documentation needs to be maintained for Telehealth Services?

A:

- Documentation at the Originating (child) Site and the Receiving (Provider) Site to substantiate the services provided.
- Documentation must indicate the MaineCare Covered Services that were rendered via Telehealth Services, the location of the Originating (child) Site and the Receiving (Provider) Sites.²¹

Q: Which provider may bill for the Telehealth Services?

A: The “receiving” site where the provider is actually located.²² The child must be present for services to be reimbursable.²³ Reimbursement is also not available for communications solely between Health Care Providers and children when such communication would otherwise not be billable.²⁴

Q: May the Health Care Provider at the Originating (child) Site bill MaineCare for an “Originating Facility Fee,” excluding a Telephonic Service?

A: Yes, if the Health Care Provider at the Originating (child) Site is making a room and telecommunications equipment available but is not providing clinical services.²⁵ The fee is payable only if the Originating Site is in a HealthCare Provider’s facility.²⁶

¹⁹ 10-144 Chapter 101, Ch. 1, §4.06-2.A

²⁰ 10-144 Chapter 101, Ch. 1, §4.06-2.B

²¹ 10-144 Chapter 101, Ch. 1, §4.06-3

²² 10-144 Chapter 101, Ch. 1, §4.07-2.A.1

²³ 10-144 Chapter 101, Ch. 1, §4.05.C.

²⁴ 10-144 Chapter 101, Ch. 1, §4.05.D.

²⁵ 10-144 Chapter 101, Ch. 1, §4.07-2.B.1

²⁶ 10-144 Chapter 101, Ch. 1, §4.05.E.