

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**TEXAS TELEMEDICINE SERVICES
WERE PROVIDED IN ACCORDANCE
WITH STATE REQUIREMENTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Amy J. Frontz
Deputy Inspector General
for Audit Services

June 2020
A-06-18-05001

Office of Inspector General

<https://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: June 2020

Report No. A-06-18-05001

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

Medicaid telemedicine services are health services delivered via telecommunication systems. A Medicaid patient located at a patient site uses audio and video equipment to communicate with a physician or licensed practitioner located at a distant site. Medicaid views telemedicine services as a cost-effective alternative to the more traditional face-to-face way of providing medical care.

Medicaid programs have recently demonstrated increased interest in telemedicine services. This audit is one in a series of audits to determine whether selected States complied with Federal and State requirements when claiming Federal reimbursement for telemedicine services.

Our objective was to determine whether Telemedicine services were allowable in accordance with the Texas Medicaid requirements. Specifically, we reviewed whether these services met the technology, patient and provider location, and documentation requirements

How OIG Did This Audit

Our audit covered Medicaid telemedicine payments totaling \$2.5 million (\$1.4 million Federal share) made by Texas for services provided in 2015 and 2016. This was the most recent data available at the time we initiated our audit. We selected a judgmental sample of 40 client dates of service for review, totaling \$2,836 (\$1,661 Federal share).

Texas Telemedicine Services Were Provided in Accordance with State Requirements

What OIG Found

We determined that 39 of the 40 client dates of service we reviewed were allowable in accordance with the Texas Medicaid requirements. For the remaining client date of service, the provider submitted a claim for a professional service with the telemedicine modifier, however, we determined that it was a face to face visit and not a telemedicine service. This incorrect billing did not affect the Medicaid payment amount that the provider received.

What OIG Recommends and Texas Comments

This report contains no recommendations.

In written comments on our draft report, Texas agreed with our report and stated it had addressed the one compliance issue.

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INTRODUCTION

WHY WE DID THIS AUDIT

Medicaid telemedicine services are health services delivered via telecommunication systems. A Medicaid patient located at a patient site¹ uses audio and video equipment to communicate with a physician or licensed practitioner located at a distant site.² Medicaid views telemedicine services as a cost-effective alternative to the more traditional face-to-face way of providing medical care. States can use a variety of procedure codes and modifiers to track and reimburse for these Medicaid services.

Medicaid programs have recently demonstrated increased interest in telemedicine services. This audit is one in a series of audits to determine whether selected States complied with Federal and State requirements when claiming Federal reimbursement for telemedicine services.

We selected the Texas Health and Human Services Commission (State agency) for our audit based on our analysis of their 2015 and 2016 telemedicine claims data.

OBJECTIVE

Our objective was to determine whether Telemedicine services were allowable in accordance with Texas Medicaid requirements. Specifically, we reviewed whether these services met the technology, patient and provider location, and documentation requirements.

BACKGROUND

Administration of the Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. The State plan establishes which services the Medicaid program will cover. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

¹ The Texas Administrative Code (TAC) defines a patient site as “the place where a patient is physically located.”

² The TAC defines a distant site as “the place where a physician or health professional is physically located when providing telemedicine medical services or telehealth services.”

The Federal Government pays its share of a State's medical assistance costs on the basis of the Federal medical assistance percentage, which varies depending on the State's relative per capita income. In Texas, the State agency administers the Medicaid program.

Telemedicine Services in Texas

Telemedicine services are provided for the purposes of patient assessment, diagnosis, or consultation by a physician, or treatment, or for the transfer of medical data by a provider who is located at a site other than the site where the patient is located. Advanced telecommunications technology³ must be used for all patient evaluation and treatment conducted via telemedicine. The patient site must be one of the following (as defined by the Texas Medicaid Providers Procedures Manual (TMPPM)):

- "A location where clients will present to seek medical care" (i.e., an established medical site),
- "A hospital with an inpatient component funded or operated by [the Texas Department of State Health Services] DSHS" (i.e., a State mental health facility), or
- "A State-supported and structured residential facility operated by [The Texas Department of Aging and Disability Services] DADS" providing services to intellectually or developmentally disabled individuals (i.e., a State supported living center).

Lastly, medical records must be maintained for all telemedicine medical services.

The distant site services are payable to providers who must be enrolled in Texas Medicaid as a physician, certified nurse specialist, nurse practitioner, physician assistant, or a certified nurse midwife. The patient site facility fees are payable to providers that are enrolled in Texas Medicaid, such as nurse practitioners, certified nurse specialist, physician assistants, physicians, and outpatient hospital providers. The patient site presenter is the individual at the patient site location who introduces the patient to the distant site provider for examination, and to whom the distant site provider may delegate tasks and activities that are within the scope of the presenter's licensure or certification. The patient site presenter must be licensed, certified, or credentialed as required by State regulations.

³ According to the TAC, telemedicine service requires the use of advanced telecommunications technology, other than telephone or facsimile technology. It states that advanced telecommunications technology includes compressed digital interactive video, audio, or data transmission; clinical data transmission using computer imaging by way of still-image capture and store and forward; and other technology that facilitates access to health care services or medical specialty expertise.

Telemedicine Reimbursement in Texas

As a condition of reimbursement, telemedicine services must be designated for reimbursement by the State agency and meet the telemedicine service requirements. These services include consultations, office visits, psychiatric diagnostic interviews, pharmacologic management, psychotherapy, and data transmission.

The distant site provider submits the telemedicine claims for the eligible telemedicine services using the appropriate code for the service along with the telemedicine modifier “GT.”⁴ When the modifier is added to the procedure code, it specifically identifies the claim as a telemedicine service. The telemedicine service available for reimbursement to the patient site provider is a facility fee.

HOW WE CONDUCTED THIS AUDIT

Our audit covered \$2.5 million (\$1.4 million Federal share) of Medicaid telemedicine payments made by the State agency. These payments represent 54,926 client dates of service that occurred from January 1, 2015, through December 31, 2016 (our audit period).⁵ The types of services included in our universe were psychiatric diagnostic evaluations, psychotherapy, office visits, consultations, and the patient site facility fee.

We selected a judgmental sample of 40 client dates of service, totaling \$2,836 (\$1,661 Federal share) and requested supporting documentation from the providers that billed for these services. The providers submitted answers to a questionnaire and provided medical documentation to support the telemedicine services for each client date of service. We reviewed the information to determine if the following telemedicine requirements were met: (1) services were provided using advanced communication technology;⁶ (2) patient site was an established medical site, a State mental facility, or a State-supported living center; (3) the distant site provider was physically located at a site other than where the patient was located; and (4) medical records for the service were maintained.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴ Code modifiers are two-digit codes that may consist of alphanumeric characters appended to Healthcare Common Procedure Coding System codes to provide additional information needed to process a claim.

⁵ The audit period encompassed the most current data available at the time we initiated our audit.

⁶ We did not visually inspect the equipment, nor did we verify that it was Health Insurance Portability and Accountability Act compliant—only that appropriate technology was used.

Appendix A contains the details of our audit scope and methodology. Appendix B contains our criteria.

RESULTS OF AUDIT

We determined that 39 of the 40 client dates of service we reviewed were allowable in accordance with the Texas Medicaid requirements. For the remaining client date of service, the provider submitted a claim for a professional service with the telemedicine modifier, however, we determined that it was a face-to-face visit and not a telemedicine service. This incorrect billing did not affect the Medicaid payment amount that the provider received.

Based on our results, this report contains no recommendations.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed with our report and stated it had addressed the one compliance issue.

The State agency's comments are included in their entirety as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered \$2,454,061 (\$1,409,685 Federal share) of Medicaid telemedicine payments made by the State agency. These payments represent 54,926 client dates of service that occurred from January 1, 2015, through December 31, 2016 (our audit period). From these client dates of services, we selected a judgmental sample of 40 totaling \$2,836 (\$1,661 Federal share) for review.

We conducted audit work from December 2018 through February 2020.

We did not assess the State agency's overall internal control structure. Rather, we limited our review of internal controls to those applicable to our audit objective.

METHODOLOGY

To accomplish our objective, we:

- reviewed State plan and State plan attachments, applicable State laws, and State guidance;
- held discussions with State Medicaid officials to gain an understanding of how the telemedicine program works;
- reviewed the State's internal controls;
- obtained Medicaid telemedicine payments for the audit period
- selected a judgmental sample of 40 client dates of service for review;
- sent questionnaires and document request letters to the providers that billed the services for the selected client dates of service;
- obtained and reviewed supporting documentation for each selected client date of service and documented the results; and
- discussed our results with State Officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL AND STATE REQUIREMENTS

FEDERAL REQUIREMENTS:

The Social Security Act § 1903(a) states:

From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1966—(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b), subject to subsections (g) and (j) of this section and subsection 1923(f) of the total amount expended during such quarter as medical assistance under the State plan.

STATE REQUIREMENTS:

Texas State Plan Attachment 4.19-B (page 1a) (effective April 1, 2014) states

1. Physicians and Other Practitioners

- (a) Subject to the qualifications, limitations, and exclusions in the amount, duration and scope of benefits as provided elsewhere in the State Plan, payment to eligible providers of laboratory services, including x-ray services, radiation therapy services, physical and occupational therapists' services, physician services (including anesthesia and physician-administered drugs), podiatry services, chiropractic services, optometric services, dentists' services, psychologists' services, certified respiratory care practitioners' services, maternity clinics' services, tuberculosis clinic services, certified nurse midwife services, and advanced telecommunication services (including telemedicine, telehealth, and telemonitoring services) are reimbursed based on an uniform, statewide, prospective payment system.

Texas State Plan Attachment, Appendix 1 to Attachment 3.1-A (page 9) (effective July 1, 2013) states:

5. Physicians' and Dentists' Services.

- (a) Physicians' Services. Services by or under the personal supervision of a physician licensed to practice medicine or osteopathy are covered by the Texas Medical Assistance Program as specified in 42 CFR § 440.50.

(1) Telemedicine

Services provided via telemedicine are a benefit of the Texas Medicaid Program. Telemedicine is defined as the practice of health care delivery by a

provider who is located at a site other than the site where the patient is located for the purposes of evaluation, diagnosis, consultation, or treatment that requires the use of advanced telecommunications technology. Telephone conversations, chart reviews, electronic mail messages, and facsimile transmissions are not considered telemedicine.

The distant site provider uses telemedicine to provide a service to the client at the patient site. Qualifying distant site providers are reimbursed in accordance with the standard Medicaid reimbursement methodology. Qualifying patient sites are reimbursed a facility fee.

Texas Administrative Code (TAC)

1 TAC § 354.1432, states:

Telemedicine medical services and telehealth services are a benefit under the Texas Medicaid program as provided in this section and are subject to the specifications, conditions, limitations, and requirements established by the Texas Health and Human Services Commission or its designee (HHSC).

(1) Conditions for reimbursement applicable to telemedicine medical services.

(A) The telemedicine medical services must be designated for reimbursement by HHSC. Telemedicine medical services designated for reimbursement include:

- (i) consultations;
- (ii) office or other outpatient visits;
- (iii) psychiatric diagnostic interviews;
- (iv) pharmacologic management;
- (v) psychotherapy; and
- (vi) data transmission.

(B) The services must be provided in compliance with 22 TAC Chapter 174 (relating to telemedicine).

(C) The patient site must be:

- (i) an established medical site;

- (ii) a state mental health facility; or
- (iii) a state supported living center.”

22 TAC § 174.2(10), states:

Telemedicine medical service—The practice of medical care delivery, initiated by a distant site provider, who is physically located at a site other than the site where the patient is located, for the purposes of evaluation, diagnosis, consultation, or treatment which requires the use of advanced telecommunications technology that allows the distant site provider to see and hear the patient in real time.

22 TAC § 174.9, states:

- (a) At a minimum, advanced communication technology must be used for all patient evaluation and treatment conducted via telemedicine.

22 TAC § 174.10, states:

- (a) Medical records must be maintained for all telemedicine medical services. Both the distant site provider and the patient site presenter must maintain the records created at each site unless the distant site provider maintains the records in an electronic health record format.
- (b) Distant site providers must obtain an adequate and complete medical history for the patient prior to providing treatment and must document this in the medical record.
- (c) Medical records must include copies of all relevant patient-related electronic communications, including relevant patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care and instructions. If possible, telemedicine encounters that are recorded electronically should also be included in the medical record.

1 TAC § 354.1430 (Definitions) states:

- (1) Distant site—the place where a physician or health professional is physically located when providing telemedicine medical services or telehealth services.
- (3) Established medical site—Has the meaning defined in the rules of the Texas Medical Board at 22 TAC § 174.2 (relating to Definitions).
- (5) Patient site—The place where a patient is physically located.
- (6) Patient site presenter—An individual at the patient site who:

- (A) introduces the patient to the distant site provider for examination, and to whom the distant site provider may delegate tasks and activities; and
- (B) is at least one of the following:
 - (i) licensed or certified in Texas to perform health care services and must present and/or be delegated tasks and activities only within the scope of the individual's licensure or certification; or
 - (ii) a qualified mental health professional-community services (QMHP-CS) as defined in 25 TAC § 412.303 (relating to Definitions).
- (8) State mental health facility—A hospital with an inpatient component funded or operated by the Department of State Health Services.
- (9) State supported living center—A state-supported and structured residential facility operated by the Department of Aging and Disability Services to provide to individuals with intellectual and developmental disabilities a variety of services, including medical treatment, specialized therapy, and training in the acquisition of personal, social, and vocational skills, as defined at Health and Safety Code § 531.002(17).
- (11) Telemedicine medical service—A health care service, initiated by a physician who is licensed to practice medicine in Texas under Title 3, Subtitle B of the occupations Code or provided by a health professional acting under physician delegation and supervision, that is provided for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:
 - (A) compressed digital interactive video, audio, or data transmission;
 - (B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and
 - (C) other technology that facilitates access to health care services or medical specialty expertise.

Texas Medicaid Providers Procedures Manual (TMPPM) Telecommunications Services Handbook, vol. 2, December 2015 and December 2016 versions

TMPPM, 3. Services, Benefits, Limitations, and Prior Authorization, paragraphs 1-2, states:

Telemedicine and telehealth services must be provided in compliance with standards established by the respective licensing or certifying board of the professional providing the services.

Only those services that involve direct face-to-face interactive video communication between the client and the distant-site provider constitute a telemedicine or telehealth service. Telephone conversations, chart reviews, electronic mail messages, and fax transmissions alone do not constitute a telemedicine or telehealth interactive video service and will not be reimbursed as telemedicine or telehealth services.

TMPPM, 3.1 Telemedicine Services, states:

Telemedicine is defined as a health-care service that is either initiated by a physician who is licensed to practice medicine in Texas or provided by a health professional who is acting under physician delegation and supervision. Telemedicine is provided for the purpose of the following:

- Client assessment by a health professional
- Diagnosis, consultation, or treatment by a physician
- Transfer of medical data that requires the use of advanced telecommunications technology other than telephone or facsimile technology, including the following:
 - Compressed digital interactive video, audio, or data transmission.
 - Clinical data transmission using computer imaging by way of still-image capture and store- and forward.
 - Other technology that facilitates access to health-care services or medical specialty expertise.

TMPPM, 1, General Information, paragraph 3, states:

The information in this handbook is intended for home health agencies, hospitals, nurse practitioners (NP), clinical nurse specialists (CNS), certified nurse midwives (CNM), licensed professional counselors (LPC), licensed marriage and family therapists (LMFT), licensed clinical social workers (LCSW), physicians, physician assistants (PA),

psychologists, licensed psychological associates, provisionally licensed psychologists, and licensed dietitians.

TMPPM, 3.1.1, Distant Site, states:

A distant site is the location of the provider rendering the service. Distant-site telemedicine benefits include services that are performed by the following providers, who must be enrolled as a Texas Medicaid provider:

- Physician
- CNS
- NP
- PA
- CNM

TMPPM, 3.1.2 Patient Site, states:

A patient site is where the client is physically located while the service is rendered. The patient-site must be one of the following:

- *Established medical site*—A location where clients will present to seek medical care. There must be a patient-site presenter and sufficient technology and medical equipment to allow for an adequate physical evaluation, as appropriate for the client’s presenting complaint. A defined physician-client relationship is required. A client’s private home is not considered an established medical site.
- *State mental health facility*—A hospital with an inpatient component funded or operated by DSHS.
- *State-supported living center*—A state-supported and structured residential facility operated by DADS to provide individuals with intellectual and developmental disabilities a variety of services, including medical treatment, specialized therapy, and training in the acquisition of personal, social, and vocation skills, as defined in Health and Safety Code 431.002(17).

Patient-site providers that are enrolled in Texas Medicaid may only be reimbursed for the facility fee using procedure code Q3014. Procedure code Q3014 is payable to NP, CNS, PA, physicians, and outpatient hospital providers.

It also states:

A patient-site presenter introduces the client to the distant-site provider for examination and performs any tasks and activities that are delegated by the distant-site provider. A patient-site provider must be at least one of the following:

- An individual who is licensed or certified in Texas to perform health-care services and who presents or is delegated tasks and activities only within the scope of the individual's licensure or certification
- A qualified mental health professional-community services (QMHP-CS) as defined in Title 25 TAC 412.303

The patient-site presenter must maintain the records created at the distant site unless the distant-site provider maintains the records in an electronic-health-record format.

APPENDIX C: STATE AGENCY COMMENTS



TEXAS
Health and Human
Services

Texas Health and Human Services Commission

Phil Wilson
Executive Commissioner

May 20, 2020

Ms. Patricia Wheeler
Regional Inspector General for Audit Services
Office of Inspector General, Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

Re: Number A-06-18-05001

Dear Ms. Wheeler:

The Texas Health and Human Services Commission (HHSC) received the draft audit report entitled "Texas Telemedicine Services Were Provided in Accordance with State Requirements" from the U.S. Department of Health and Human Services Office of Inspector General. The cover letter dated April 20, 2020, requested that HHSC provide any written comments within 30 days from the date of the letter.

I appreciate the opportunity to respond. HHSC has addressed the one compliance issue identified, agrees with the no recommendations report, and has no further comments.

Should you need additional information or have any questions, Jose Garcia, Office of Audit and Compliance Interim Deputy Director, serves as lead staff on this matter and can be reached by phone at 512-927-7454 or by email at jose.garcia@hhsc.state.tx.us.

Sincerely,

A handwritten signature in cursive script that reads "Phil Wilson".

Phil Wilson