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PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

The teletherapy policy, which is applicable to psychologists, social workers, counselors, and marriage and family therapists, states that teletherapy providers are responsible for “ensuring that the therapeutic means of communication includes confidentiality and computer/cyber security”

[Colorado Department of Regulatory Agencies, State Board of Psychologist Examiners, Laws, Rules and Policies, 30-1 Teletherapy Policy](#) (for access to the *Teletherapy Policy*, click “Psychologist Policies” from this page).

The Colorado Medical Assistance (Medicaid) program has the following specific telemedicine confidentiality requirements for providers:

“All Medicaid providers using telemedicine to deliver Medicaid services must employ existing quality-of-care protocols and member confidentiality guidelines when providing telemedicine services. . . . Recordkeeping should comply with Medicaid requirements in 10 CCR 2505-10, Section 8.130.”

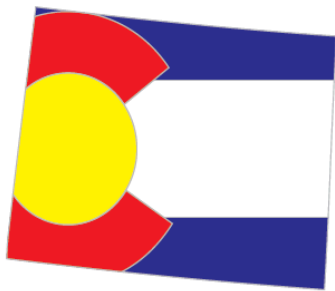
[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3.](#)

“Transmissions must be performed on dedicated secure lines or must utilize an acceptable method of encryption adequate to protect the confidentiality and integrity of the transmission. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.”

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3.](#)

Providers of telemedicine services must implement confidentiality procedures that include, but are not limited to:

- Specifying the individuals who have access to electronic records.
- Using unique passwords or identifiers for each employee or other person with access to the client records.
- Ensuring a system to routinely track and permanently record such electronic medical information.
- Members must be advised of their right to privacy and that their selection of a location to receive telemedicine services in private or public environments is at the member’s discretion.



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[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3-4.](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Both primary care physicians and medical specialists may qualify for reimbursement.

“In order for a primary care provider to be reimbursed for Telemedicine Direct Member Services as the ‘distant provider’ the primary care provider must be able to facilitate an in-person visit in the state of Colorado if necessary for treatment of member’s condition.”

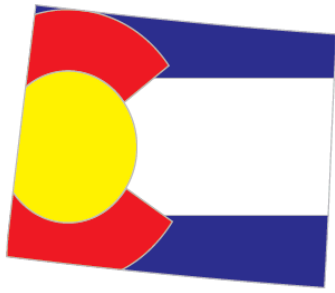
[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3.](#)

Additionally, the following are listed under “Not Covered Services”:

- Telemedicine does not include consultations provided by telephone (interactive audio) or facsimile machines.
- Providers may only bill procedure codes which they are already eligible to bill.
- Services appropriately billed to managed care should continue to be billed to managed care. All managed care requirements must be met for services billed to managed care. Managed care may or may not reimburse telemedicine costs.
- Colorado Medicaid does not pay for provider or patient education when education is the only service provided via telemedicine.
- Services not otherwise covered by Colorado Medicaid are not covered when delivered via telemedicine.
- The use of telecommunications equipment for delivery of services does not change prior authorization requirements established for the services being provided.

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 2.](#)

The Medicaid requirement for face-to-face contact between provider and member may be waived prior to treating the member through telemedicine for the first time. The rendering provider must furnish each member with all of the following written statements which must be signed (electronic signatures will be accepted) by the member or the member’s legal representative:



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- The member retains the option to refuse the delivery of health care services via telemedicine at any time without affecting the member's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the member would otherwise be entitled.
- All applicable confidentiality protections shall apply to the services.
- The member shall have access to all medical information resulting from the telemedicine services as provided by applicable law for member access to his or her medical records.

These requirements do not apply in an emergency.

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 4.](#)

CONTROLLED SUBSTANCES

How are "controlled substances" defined by the state?

Colorado defines the term "controlled substance" to mean "a drug, substance, or immediate precursor included in schedules I through V of part 2 of this article, including cocaine, marijuana, marijuana concentrate, cathinones, any synthetic cannabinoid, and salvia divinorum."

[COLO. REV. STAT. § 18-18-102\(5\).](#)