

# Telemedicine Laws in Minnesota

July 2020

## Overview

This publication briefly describes the major telemedicine provisions in Minnesota law. An appendix describes temporary changes to expand the use of telemedicine that were authorized and implemented during the peacetime emergency related to COVID-19 declared by the governor.

## Contents

<a href="#">Health Carriers and Telemedicine</a> .....	1
<a href="#">Medical Assistance Coverage of Telemedicine</a> .....	3
<a href="#">Health Carrier Network Adequacy and Telemedicine</a> .....	6
<a href="#">Regulation of Telemedicine by the Board of Medical Practice</a> .....	6
<a href="#">Telemedicine as Meeting Requirements for In-person Services</a> .....	7
<a href="#">Telemedicine Grants/Program Criteria Related to Telemedicine</a> .....	9
<a href="#">Other Provisions</a> .....	10
<a href="#">Appendix – Temporary Changes Related to Telemedicine</a> .....	11

## Health Carriers and Telemedicine

The primary state law regulating coverage of telemedicine services by private sector health insurers is found in [Minnesota Statutes, sections 62A.67 to 62A.672](#). These provisions were enacted in 2015 as the “Minnesota Telemedicine Act” and are described below. For temporary COVID-19 changes related to health carriers and telemedicine, see section A of the appendix.

### Parity in coverage and reimbursement

These sections of law contain several provisions that seek to ensure parity in health carrier<sup>1</sup> coverage and reimbursement for telemedicine services, relative to health care services that are delivered in-person.

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<sup>1</sup> “Health carrier” has the meaning provided in [section 62A.011](#), subdivision 2. This is a standard insurance law definition that includes traditional indemnity health insurers, nonprofit health service plan corporations such as Blue Cross Blue Shield, health maintenance organizations (HMOs), and other specified entities that provide health coverage.

[Minnesota Statutes, section 62A.672](#), requires health carriers to:

- 1) cover telemedicine benefits through their health plans in the same manner as any other covered benefits;
- 2) not exclude a service from coverage solely because it is provided through telemedicine and is not provided through in-person consultation or contact between a licensed health care provider and a patient;
- 3) reimburse health care providers who deliver services by telemedicine at a distant site on the same basis and at the same rate as would apply had those services been delivered in person by that provider; and
- 4) limit any deductible, copayment, or cost-sharing for a service delivered by telemedicine to an amount that does not exceed, and is not in addition to, the amount that would apply if the service was delivered in person.

The section of law specifying these requirements states that it should not be construed to:

- 1) require a health carrier to cover services that are not medically necessary;
- 2) prohibit a health carrier from establishing criteria that health care providers must meet to demonstrate the safety or efficacy of delivering by telemedicine a service not already reimbursed by the health carrier when delivered by telemedicine, as long as the criteria are not unduly burdensome or unreasonable for the particular service; or
- 3) prevent a health carrier from requiring a health care provider to agree to certain documentation or billing practices to prevent fraud, as long as the practices are not unduly burdensome or unreasonable for a particular service.

## Definition of telemedicine and related terms

[Minnesota Statutes, section 62A.671](#), defines telemedicine and related terms for purposes of the provisions described above. These definitions also have the effect of specifying the covered modes of telemedicine and the provider types eligible to provide telemedicine services. Some of the most relevant definitions are summarized below.

**Telemedicine** is defined as “the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site.” Other components of the definition are that:

- communications between health care providers consisting solely of a telephone conversation, e-mail, or facsimile transmission are not considered to be a telemedicine consultation or service;
- communications between a licensed health care provider and a patient consisting solely of an e-mail or facsimile transmission are not considered to be a telemedicine consultation or service; and
- telemedicine may be provided by real-time two-way, interactive audio and visual communications, including the application of secure video conferencing or store-

and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care.

**Distant site** is the “site at which a licensed health care provider is located while providing health care services or consultations by means of telemedicine.”

**Originating site** means “a site including, but not limited to, a health care facility at which a patient is located at the time health care services are provided to the patient by means of telemedicine.”

**Licensed health care provider** in the context of the telemedicine law is a health care provider authorized to provide telemedicine services. A licensed health care provider is defined as any health care provider who is:

- 1) licensed under [chapters 147](#) (physicians), [147A](#) (physician assistants), [148](#) (chiropractors, nurses, speech-language pathologists and audiologists, optometrists, dietitians and nutritionists, occupational therapists and occupational therapy assistants, physical therapists, athletic trainers, psychologists, certified doulas), [148B](#) (marriage and family therapists and licensed professional counselors), [148E](#) (social workers), [148F](#) (alcohol and drug counselors), [150A](#) (dentists), or [153](#) (podiatrists);
- 2) a mental health professional as defined under [Minnesota Statutes, sections 245.462](#), subdivision 18 or [245.4871](#), subdivision 27<sup>2</sup>; or
- 3) a vendor of medical care as defined in [Minnesota Statutes, section 256B.02](#), subdivision 7<sup>3</sup>.

These providers must be authorized within their scope of practice to provide the particular service with no supervision or under general supervision.

## Medical Assistance Coverage of Telemedicine

[Minnesota Statutes, section 256B.0625](#), subdivision 3b, sets requirements for Medical Assistance (MA) coverage of telemedicine delivered through the fee-for-service system. These requirements are described below. A final sub-section describes MA and MinnesotaCare coverage of telemedicine under managed care (all MinnesotaCare enrollees receive services through managed care).

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<sup>2</sup> “Mental health professional” includes a range of health care providers who meet specified educational and work experience requirements related to the provision of mental health services, including but not limited to: psychiatric and mental health nurses, independent clinical social workers, psychologists, psychiatrists, marriage and family therapists, licensed professional clinical counselors, and persons in allied fields.

<sup>3</sup> “Vendor of medical care” is defined, in part, as any person or persons furnishing within the scope of their license a broad range of goods or services, including but not limited to: medical, surgical, hospital, ambulatory surgical center, optical, dental, nursing, drugs and medical supplies, laboratory, diagnostic, therapeutic, nursing home, and public health nurse screening and assessments.

For more detailed information on MA telemedicine coverage for specific services, provider types, and originating sites, see the separate covered services sections in the [DHS Health Care Provider Manual](#) and the Minnesota section in Center for Connected Health Policy, [State Telehealth Laws and Reimbursement Policies](#), Spring 2020.<sup>4</sup>

For temporary COVID-19 changes related to state health care programs, see section B of the appendix.

## Coverage generally

MA covers medically necessary services and consultations delivered by a licensed health care provider by telemedicine in the same manner as if the service or consultation was delivered in person. Telemedicine services must be paid at the full allowed MA payment rate.

Coverage for most services is limited to three telemedicine services per enrollee per week. This limit does not apply if the telemedicine services are provided for the treatment and control of tuberculosis, and the services are provided according to the recommendations and best practices specified by the Centers for Disease Control and Prevention and the Commissioner of Health.

## Provider criteria related to safety and efficacy

The Commissioner of Human Services is directed to establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a service through telemedicine. The attestation may include that the health care provider has:

- 1) identified the categories or types of services that will be provided by telemedicine;
- 2) written policies and procedures for telemedicine services that are regularly reviewed and updated;
- 3) policies and procedures that adequately address patient safety;
- 4) established protocols on how and when to discontinue telemedicine services; and
- 5) an established quality assurance process related to telemedicine services.

## Provider documentation and record requirements

Licensed health care providers must comply with specified documentation and record requirements in order to receive payment from the Department of Human Services (DHS) for telemedicine services. These requirements address the type of service, time the service was provided, basis for the provider's determination that telemedicine is an appropriate and effective method of service delivery, mode of transmission of the telemedicine service, location

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<sup>4</sup> The DHS Health Care Provider Manual is available online at [https://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id\\_000094#](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_000094#). The state survey by the Center for Connected Health Policy is available online at [https://www.cchpca.org/sites/default/files/2020-05/CCHP\\_%2050\\_STATE\\_REPORT\\_SPRING\\_2020\\_FINAL.pdf](https://www.cchpca.org/sites/default/files/2020-05/CCHP_%2050_STATE_REPORT_SPRING_2020_FINAL.pdf).

of the originating and distant site, the written opinion from any consulting physician if telemedicine is used for a consultation with another physician, and compliance with the criteria for attestation listed above.

## Definition of telemedicine

The definition of telemedicine used by MA is very similar to that which applies to health carriers (see previous section). The main difference is that a communication between a licensed health care provider and patient that consists solely of a telephone conversation is excluded from the definition of telemedicine; this exclusion is not part of the law for health carriers.

## Definition of licensed health care provider and other terms

The MA definition of licensed health care provider (i.e., a provider authorized to provide telemedicine services) incorporates the definition that applies to health carriers (see previous section) but also adds additional providers. These additional providers are: community paramedics; mental health practitioners as defined under [sections 245.462](#), subdivision 17 or [245.4871](#), subdivision 26, working under the general supervision of a mental health professional; and community health workers. The MA program also incorporates the definitions of “health care provider” and “originating site” that apply to health carriers.

## Telemedicine and MA managed care

Managed care and county-based purchasing plans under contract with DHS to deliver services to MA and MinnesotaCare enrollees must cover medically necessary telemedicine services and consultations.<sup>5</sup> These services are covered when delivered by a licensed health care provider under [Minnesota Statutes, section 62A.671](#), subdivision 6; or a mental health practitioner as defined in [Minnesota Statutes, sections 245.462](#), subdivision 17 or [245.4871](#), subdivision 26, working under the general supervision of mental health professional.

Coverage is limited to three telemedicine services per enrollee per week, with the same exception related to telemedicine services provided for the control and treatment of tuberculosis that applies under MA fee-for-service.

Licensed health care providers must document each telemedicine service provided to an enrollee. Health care service records must: (1) meet the requirements in [Minnesota Rules, part 9505.2175](#), subparts 1 and 2; these rule parts specify general requirements for documenting the provision of a health care service that providers must comply with in order to receive payment from DHS; and (2) document the requirements specified in [Minnesota Statutes](#),

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<sup>5</sup> [Minnesota Statutes section 256B.69](#), subdivision 6, clause (1), requires managed care and county-based purchasing plans to provide under MA the “full range of services listed in . . . [\(section\) 256B.0625](#).” Telemedicine services are one of the covered MA services listed in [section 256B.0625](#). Under MinnesotaCare, managed care and county-based purchasing plans are required to cover most services that are covered under MA, including telemedicine services ([Minn. Stat. §§ 256L.03](#), subd. 1 and [256L.12](#), subd. 7, cl. (1)). See also model templates for 2020 contracts with MCOs, January 1, 2020, available on the DHS website under Managed Care Contracts.

[section 256B.0625](#), subdivision 3b (the requirements for MA fee-for-service telemedicine described earlier).

## Health Carrier Network Adequacy and Telemedicine

Minnesota law sets health care provider geographic accessibility standards for HMO networks (e.g., the maximum travel distance or time must be the lesser of 30 miles or 30 minutes to primary care, mental health, and general hospital services; the standard is the lesser of 60 miles or 60 minutes for specialty physician services, ancillary services, specialized hospital services, and all other services). [[Minn. Stat. § 62D.124](#)] An HMO that is unable to meet these standards may apply to the Commissioner of Health for a waiver. One of the waiver terms allows an HMO to address network inadequacy by providing patient access to providers by telemedicine, if the HMO can demonstrate that there are no providers of a specific type or specialty in a county.

Minnesota law also applies the same provider network geographic accessibility standards to health carriers that provide financial and other incentives for an enrollee to use providers that are part of the health carrier's network. [[Minn. Stat. § 62K.10](#)] As is the case with HMOs, a health carrier that is unable to meet the network accessibility standards may apply to the Commissioner of Health for a waiver, and to address network inadequacy through the use of telemedicine.

## Regulation of Telemedicine by the Board of Medical Practice

State laws administered by the Board of Medical Practice provide that a physician-patient relationship may be established through telemedicine, and that physicians who provide services by telemedicine are held to the same standards of practice and conduct as apply to the provision of in-person services. [[Minn. Stat. § 147.033](#)]

Physicians licensed to practice in another state, who are not also licensed to practice in Minnesota, may provide telemedicine services on a regular basis to patients located in Minnesota if they register annually with the board and meet specified criteria. [[Minn. Stat. § 147.032](#)]

It is unlawful for a physician not licensed in Minnesota to provide interstate telemedicine services in Minnesota without a valid registration; a violation of this requirement is grounds for the board to take disciplinary action. The board also has the authority to suspend or revoke a registration to provide interstate telemedicine services for violations of the laws governing physician practice in Minnesota. [[Minn. Stat. §§ 147.081; 147.091](#), subd. 1, para. (z); [147.141](#), cl. (3)]

For temporary COVID-19 changes related to telemedicine and out-of-state mental health providers, see section C of the appendix.

## Telemedicine as Meeting Requirements for In-person Services

A number of provisions in Minnesota law specify circumstances in which the delivery of services by telemedicine satisfies a general requirement that services be provided in-person. These provisions are described below. For temporary COVID-19 changes related to telemedicine and in-person services, see section D of the appendix.

### Patient exam for ophthalmic prescriptions

In order to prescribe ophthalmic goods, the optometrist or physician must establish a provider-patient relationship through a patient examination. In addition to an in-person exam, the provider may conduct the exam through: (1) face-to-face interactive, two-way, real-time communication; or (2) store-and-forward technologies when certain conditions are met. [[Minn. Stat. § 145.713](#), subd. 4, paras. (b) and (c)]

### Patient exam for certain prescriptions

A consultant physician may use telemedicine to prescribe controlled substances and other specified drugs, as long as the referring practitioner has performed an examination of the patient. For purposes of prescribing phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction, the requirement for a documented patient evaluation, including an examination, may be met through the use of telemedicine. [[Minn. Stat. § 151.37](#), subd. 2, paras. (d) and (e), cl. (5); [Laws 2020, ch. 115](#), art. 2, § 22]

### Patient assessments for medical cannabis

A health care practitioner may use telemedicine to conduct a patient assessment to issue an annual recertification that a patient has a qualifying medical condition allowing patient enrollment in the medical cannabis registry program. [[Minn. Stat. § 152.28](#), subd. 1, para. (c)]

### Pharmacist consult for medical cannabis

Prior to distribution of medical cannabis to a patient, a pharmacist employed by a medical cannabis manufacturer must consult with the patient to determine the proper dosage of medical cannabis. This consultation may take place remotely through videoconference, as long as the patient is at the distribution facility and patient privacy and other requirements are met. [[Minn. Stat. § 152.29](#), subd. 3, para. (c), cl. (4)]

### Assessment of substance use disorder

Telemedicine is included in the definition of “face-to-face” for purposes of comprehensive assessments of a client’s substance use disorder by an alcohol and drug counselor. [[Minn. Stat. §§ 245G.01](#), subd. 13; [245G.05](#), subd. 1]

## **Chemical use assessments**

Chemical use assessments may be conducted by telemedicine, for persons arrested and taken into custody outside of the person's county of residence. [[Minn. Stat. § 254A.19](#), subd. 5]

## **Assertive community treatment**

The psychiatric care provider on an assertive community treatment (ACT) team may not provide specific roles and responsibilities by telemedicine unless approved by the Commissioner of Human Services. Physician services, whether billed separately or included as part of the rate for intensive residential treatment services and assertive community treatment, may be delivered by mental health telemedicine. [[Minn. Stat. § 256B.0622](#), subd. 7a, para. (a), cl. (2), item (vi), and subd. 8, para. (e)]

## **MA mental health services**

Mental health services that are covered under MA when provided face-to-face are also covered under MA when provided by two-way interactive video, as long as this is medically appropriate to the condition and needs of the patient. Reimbursement is at the same rates and under the same conditions that would otherwise apply. The interactive video equipment and connection must comply with Medicare standards. [[Minn. Stat. § 256B.0625](#), subd. 46]

## **MA Home health services**

The face-to-face encounter with a provider that must be completed for all home health services, except for onetime perinatal visits, may occur through telemedicine. Skilled nurse visits include those provided through telehomecare. All telehomecare skilled nurse visits require authorization and are paid at the same rate as face-to-face visits. State law defines "telehomecare" and places certain limits on coverage. [[Minn. Stat. § 256B.0653](#)]

## **Children's therapeutic services**

For purposes of children's therapeutic services and supports under MA, the provision of telemedicine services by specified mental health providers counts as direct service time, as does face-to-face time with a client. [[Minn. Stat. § 256B.0943](#), subd. 1, para. (h)]

## **EIDBI services**

MA covers medically necessary early intensive developmental and behavioral intervention (EIDBI) services and consultations delivered by a licensed health care provider by telemedicine to persons with an autism spectrum disorder or a related condition in the same manner as if the service or consultation was delivered in person. Coverage is limited to three telemedicine services per person per calendar week. [[Minn. Stat. § 256B.0949](#), subd. 13, para. (j)]



# Telemedicine Grants/Program Criteria Related to Telemedicine

This section describes a number of provisions in Minnesota law that specify that telemedicine services or development are an allowed or required use of grant funds, or are an option or requirement for a particular program.

## Grants to expand broadband service

Facilitating the use of telemedicine is one of the priorities for the Department of Employment and Economic Development to consider when awarding grants to promote the expansion of broadband service in unserved or underserved areas of the state. [[Minn. Stat. § 116J.395](#), subd. 6]

## Campus mental health services

The board of the Minnesota State Colleges and Universities (MnState), when contracting with mental health organizations to provide mental health care on campus, must include the use of telemedicine. [[Minn. Stat. § 136F.20](#), subd. 3]

## Rural hospital grants

The establishment of telemedicine systems is an allowed use of rural hospital planning and transition grants awarded by the Commissioner of Health. [[Minn. Stat. § 144.147](#), subd. 2]

## School-linked mental health grants

Funds awarded through the DHS school-linked mental health grant program may be used to deliver mental health treatment and services to students and their families through telemedicine and for purchase of equipment, connection charges, on-site coordination, set-up fees, and site fees to deliver school-linked mental health services through telemedicine. [[Minn. Stat. § 245.4901](#), subd. 3]

## Chemical dependency pilot projects

Chemical dependency continuum of care pilot projects established by the Commissioner of Human Services are to include telehealth services, when appropriate to address service barriers. [[Minn. Stat. § 254B.14](#), subd. 3, cl. (2)]

## Integrated health partnerships

The use of telemedicine is one of the innovative and cost-effective methods of care delivery and coordination that integrated health partnerships under contract with the Commissioner of Human Services may adopt. [[Minn. Stat. § 256B.0755](#), subd. 1, para. (c), item 5]

## Other Provisions

This section describes miscellaneous provisions in state law that relate to the use of telemedicine.

### Home care and assisted living advisory council

The home care and assisted living program advisory council shall, at the request of the Commissioner of Health, provide advice, regarding Department of Health regulations applying to licensed home care providers, on identifying the use of technology in home and telehealth capabilities. [[Minn. Stat. § 144A.4799](#), subd. 3, cl. (6)]

### Abortion reporting

Physicians and facilities performing abortions must report the facility code for the patient and the facility code for the physician, if the abortion is performed by telemedicine, when submitting annual reports to the Commissioner of Health on abortions performed. [[Minn. Stat. § 145.4131](#), subd. 1, para. (b), cl. (12)]

## Appendix – Temporary Changes Related to Telemedicine

On March 13, 2020, the governor issued Emergency Executive Order 20-01, which declared a peacetime emergency related to COVID-19. The Commissioner of Human Services was also granted temporary authority by the governor, through executive order, to waive or modify certain requirements in order to provide essential programs and services during the COVID-19 pandemic. The legislature also enacted several laws in response to the pandemic.

This appendix describes the waivers and modifications made by the commissioner, and law provisions passed by the legislature, related to telemedicine. The text in brackets identifies, as applicable, the relevant law or the listing from the “DHS Waivers and Modifications” document available on the DHS website. The information in this appendix is current through July 14, 2020.

### Extension of expiration date for DHS waivers and modifications

[Laws 2020, First Special Session, chapter 7](#), extended until June 30, 2021, the time period during which a number of the DHS COVID-19 waivers and modifications, including several related to telemedicine, remain in effect. The provisions subject to the extension are identified in the text.

## A. Health Carriers and Telemedicine – Temporary Changes

### Provision at patient’s residence

Health carriers serving private sector, MA, and MinnesotaCare enrollees must cover telemedicine services delivered by a licensed health care provider at a distant site to a patient at the patient’s residence. This provision expires February 1, 2021. [[Laws 2020, ch. 70](#), art. 3, § 1]

### Eligible provider – health carriers

The definition of “licensed health care provider” (i.e., those providers eligible to provide telemedicine services) is expanded to include mental health practitioners<sup>6</sup> and respiratory therapists. This applies to health carriers serving private sector, MA, and MinnesotaCare enrollees. This provision expires 60 days after end of the peacetime emergency. [[Laws 2020, ch. 74](#), art. 1, § 15, subd. 2]

### Telephone conversations as covered telemedicine services

Health carriers serving private sector, MA, and MinnesotaCare enrollees must cover telemedicine services that consist solely or primarily of a telephone conversation between a

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<sup>6</sup> Under current law, mental health practitioners are eligible telemedicine providers for MA and MinnesotaCare, but are not required to be eligible telemedicine providers under private sector insurance coverage.

licensed health care provider and a patient. This provision expires 60 days after the end of the peacetime emergency. [[Laws 2020, ch. 74](#), art. 1, § 15, subd. 3]

### **Reimbursement – health carriers**

Health carriers serving private sector, MA, and MinnesotaCare enrollees are prohibited from denying or limiting reimbursement solely because services were delivered by telemedicine, or solely based on the mechanism or platform used to deliver telemedicine services. This provision ends 60 days after the end of the peacetime emergency. [[Laws 2020, ch. 74](#), art. 1, § 15, subd. 4]

## **B. State Health Care Programs – Temporary Changes**

### **School-linked mental health services**

DHS has waived certain requirements for school-linked mental health and Intermediate School District Mental Health Innovations programs, to allow:

- reimbursement of school mental health providers for expanded telemedicine services using grant funds;
- the first visit to not be in-person;
- provision of more than three telemedicine visits per-person per-week; and
- use of telephone and other nonsecured communication platforms.

These changes were made under the authority of Emergency Executive Order 20-12, and remain in effect until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications, item 12 (CV21); [Laws 2020, First Special Session, ch. 7](#)]

### **Expansion of telemedicine in public health care programs**

DHS has eased certain limits on the use of telemedicine for MA and MinnesotaCare enrollees under both fee-for-service and managed care, to allow:

- expanding the definition of telemedicine to include telephone calls
- a provider’s first visit with a patient to be by phone
- more than three telemedicine visits per-enrollee per-week

These changes, made under the authority of Executive Order 20-12, became effective retroactively March 18, 2020, and remain in effect until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 3 (CV16); [Laws 2020, First Special Session, ch. 7](#)]

The expanded use of telemedicine also applies to services provided to children with autism spectrum disorder and related conditions through the MA Early Intensive Developmental and Behavioral Intervention benefit. (See DHS Bulletin 20-48-02, Early Intensive Developmental and Behavioral Intervention (EIDBI) changes for telemedicine, coordinated care conferences and individual treatment plans, May 5, 2020)

## **Eligible provider – state health care, mental health, and substance use disorder services**

DHS, under the authority of Executive Order 20-12, has expanded the list of providers eligible to provide telemedicine services, to include the following, and their tribal provider equivalents:

- providers who are supervised by providers eligible under current law to provide telemedicine services
- mental health certified peer specialists and mental health family peer specialists
- mental health rehabilitation workers in Adult Rehabilitative Mental Health Services (ARMHS)
- mental health behavioral aides in Children’s Therapeutic Support Services (CTSS)
- alcohol and drug counselors, alcohol and drug counselor-temps, recovery peers, and student interns in licensed SUD programs

Telemedicine is also expanded to Rule 25 assessments, comprehensive assessments, and group therapy.

These changes took effect March 19, 2020, and remain in effect until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 7 (CV30); [Laws 2020, First Special Session, ch. 7](#)]

## **C. Out-of-State Mental Health Care Providers – Temporary Changes**

Under Emergency Executive Order 20-28, out-of-state mental health providers are allowed to provide telehealth services in Minnesota. This applies to providers who otherwise must be licensed by the boards of psychology, social work, marriage and family therapy, and behavioral health therapy. Individuals must register with the appropriate board. This provision is in effect until the end of the peacetime emergency.

## **D. Telemedicine and In-Person Services – Temporary Changes**

### **Remote delivery of adult day services**

DHS has authorized licensed adult day service providers, directed to close on March 29, 2020, to provide certain services remotely via two-way interactive video or audio communication, and/or in person, to one individual at a time. This alternative delivery authorization applies to: wellness checks and health-related services, socialization/companionship, activities, delivered meals, assistance with activities of daily living, and individual support to family caregivers. This change received federal approval April 29, 2020, and will remain in effect until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 9 (CV44); [Laws 2020, First Special Session, ch. 7](#)]

### **Expansion of remote services for waived service enrollees**

DHS has allowed waived services clients living in their own homes to receive services remotely by phone or other interactive technologies. This modification affects the following

programs: Alternative Care (AC) program, Brain Injury (BI) waiver, Community Alternative Care (CAC) waiver, Community Access for Disability Inclusion (CADI) waiver, Developmental Disabilities (DD) waiver, Elderly waiver (EW), and Essential Community Supports. This change is effective April 29, 2020, and remains in effect until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 10 (CV43); [Laws 2020, First Special Session, ch. 7](#)]

### **Issuance of prescriptions for substance use disorder treatment**

Laws 2020, chapter 115, article 2, section 30, allows the examination requirement for prescribing drugs to treat substance use disorder to be met if the prescribing practitioner performs a telemedicine examination. This provision took effect May 28, 2020, and terminates 60 days after the peacetime emergency ends. [[Laws 2020, ch. 115, art. 2, § 30](#)].

### **Medical cannabis – certification of qualifying medical condition and pharmacist consult**

Executive Order 20-26 made several changes to the operation of the medical cannabis program. Relative to telemedicine, the order:

- authorizes health care practitioners to certify a patient’s qualifying medical condition through videoconference, telephone, or other remote means, rather than through an in-person visit; and
- allows the patient’s consult with a pharmacist to determine the proper dosage of medical cannabis to also occur by telephone or other remote means, in a manner that protects patient privacy (current law described earlier allows this consult to take place through videoconference while the patient is at the distribution facility).

These changes remain in effect until the end of the peacetime emergency.

### **Waiver of face-to-face visits requirement for home and community-based services**

The commissioner, under the authority of Executive Order 20-12, has waived certain face-to-face requirements for MA home and community-based services, allowing for assessments of need to be conducted by phone or online and allowing case managers to conduct visits by phone or online. The programs affected by these changes include alternative care, the home and community-based services waivers (BI, CAC, CADI, DD, and elderly waiver), and essential community supports. These provisions are effective retroactively to March 18, 2020, and remain in effect until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 2 (CV15); [Laws 2020, First Special Session, ch. 7](#)]

### **Waiver of face-to-face visits for targeted case management**

The commissioner, under the authority of Emergency Executive Order 20-12, has waived the requirement that certain targeted case management services be provided through a face-to-

face visit. This waiver applies to: child welfare targeted case management, children’s mental health targeted case management, adult mental health targeted case management, vulnerable adult or adult with developmental disabilities targeted case management, and relocation service coordination targeted case management. The change was effective retroactive to March 19, 2020, and is effective until June 30, 2021, unless necessary federal approval is not received. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 8 (CV24); DHS Bulletin 20-69-02, Targeted Case Management changes for face-to-face contact requirements, April 2, 2020; [Laws 2020, First Special Session, ch. 7](#)]

### **Physical therapist assistant observation**

Physical therapists are authorized in law to meet the on-site observation requirement for treatment delegated to physical therapy assistants by observing treatment components via telemedicine. This remote observation is permitted until 60 days after the end of the peacetime emergency. [[Laws 2020, ch. 115](#), art. 2, § 32].



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