



# Texas Community Health Centers

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**TO:** Texas Health and Human Services Commission  
**FROM:** José E. Camacho, Esq., Texas Association of Community Health Centers, Inc.  
**DATE:** April 4, 2018  
**RE:** Draft Telemedicine Services Medical Policy and Draft Telehealth Services Medical Policy

*Submitted electronically via [MCDMedicalBenefitsPolicyComment@hhsc.state.tx.us](mailto:MCDMedicalBenefitsPolicyComment@hhsc.state.tx.us)*

Thank you for the opportunity to provide comments on the draft Telemedicine Services Medical Policy and the draft Telehealth Services Medical Policy for the Texas Health and Human Services Commission (HHSC). The Texas Association of Community Health Centers, Inc. (TACHC) represents community health centers, or federally qualified health centers (FQHCs), throughout Texas. The 76 health centers served more than 1.3 million patients through more than five million patient visits in 2016. We have more than 460 health care delivery sites across 125 counties in Texas. Health centers provide comprehensive primary care services, including medical, dental, vision, and behavioral health services for Texans in medically underserved areas in urban, suburban, rural, and frontier communities.

As community health centers we recognize the opportunity for telemedicine and telehealth services to expand access to specialty and behavioral health services. Access to these providers has long been limited for many patients we serve. By utilizing telemedicine and telehealth services we hope to broaden access for our patients and ultimately improve health outcomes for all Texans.

The comments below seek to clarify the role of FQHCs as providers and utilizers of telemedicine and telehealth services, highlight previous guidance to FQHCs concerning telehealth and telemedicine services, and clarify the reimbursement methodology for FQHCs as pertains to telehealth and telemedicine services within Medicaid.

## **Medicaid Reimbursement Policy for FQHCs**

Per 1 TAC 354.1321, FQHC services are available to eligible Medicaid recipients. Covered services are limited to services as described in the Social Security Act, §1861(aa)(1)(A)-(C); and other ambulatory services covered by the Texas Medical Assistance Program when provided by other enrolled providers. Covered services provided by an FQHC must be reasonable and medically necessary as determined by the department or its designee.

When furnished to a patient of the FQHC, medically necessary services include: physician services; physician assistant services; nurse practitioner services; clinical psychologist services; clinical social worker services; services and supplies incident to such services as would otherwise be covered if furnished by a physician or as an incident to a physician's services;

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visiting nurse services to a homebound individual, in the case of those FQHCs that are located in an area that has a shortage of home health agencies as determined by the state survey agency; and any other ambulatory service offered by an FQHC and that is otherwise included in the Title XIX Medicaid state plan.

Per 1 TAC 355.8261, FQHCs selecting the prospective payment system (PPS) methodology will be reimbursed an encounter rate for Medicaid covered services. **It is our understanding that because telemedicine medical services and telehealth services are a benefit of Texas Medicaid, according to the draft policy, telemedicine medical services and telehealth services must be provided to Medicaid clients seeking services at FQHC.** Additionally, these Medicaid visits must be reimbursed at the health center's PPS rate (described below).

To be considered telemedicine or telehealth in Medicaid fee-for-service, a patient at an originating site is assisted by a specified health professional to communicate with a specified provider type at a distant site location via synchronous audiovisual interaction between the distant site provider and the patient in another location *or* asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the distant site provider and the patient in another location. Texas Medicaid MCOs may optionally provide reimbursement for telemedicine or telehealth services that are provided through only synchronous or asynchronous audio interactions.

## a. TELEMEDICINE

Telemedicine medical services are defined as health care services delivered by a physician licensed in this state, or a health professional acting under the delegation and supervision of a physician licensed in this state, and acting within the scope of the physician's or health professional's license to a patient at a different physical location than the physician or health professional using telecommunications or information technology.

In visits provided via telemedicine, FQHCs are not reimbursed through Medicaid to act as the distant site provider who performs the consultation, because CMS has determined that FQHCs are not eligible distant site providers under law. Additionally, Texas Medicaid will not pay FQHCs a separate facility fee for acting as the patient site presenter. However, TACHC received guidance from the State Medicaid Director on March 23, 2017, stating that FQHCs may **contract** for telemedicine services: *"An FQHC with an affiliation agreement with a telemedicine distant site provider could bill Texas Medicaid on behalf of the distant site provider and receive payment of their APPS/PPS encounter rate, as provided under 1 TAC 354.1322. The amount remitted by the FQHC to the distant site provider would be determined by the amount specified in the affiliation agreement."*



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It is our understanding that under current Medicaid policy, an FQHC may serve as the patient site presenter, and the FQHC may contract with a provider at a non-FQHC to provide the consultation. The FQHC would bill Medicaid at their PPS rate and pay the consultant the contracted rate from that PPS reimbursement. The contractor does not bill. Under this arrangement the FQHC is able to keep the difference between the PPS encounter and the contracted rate paid to the contractor. This difference helps cover some of the costs associated with serving as the presenting patient site – similar to an informal facility fee.

Any arrangement where an FQHC bills an encounter payment to Medicaid on behalf of another provider that is not employed by the FQHC would constitute an affiliate agreement under state rules and would have to be approved by HHSC. TACHC would like to confirm that this arrangement would still be considered correct under these amendments.

TACHC is supportive of the major amendments related to SB 1107, particularly:

- Revising the definition of telemedicine medical services within Texas Medicaid.
- Removing patient site presenter requirements, with an exception for school-based telemedicine medical services.
- Removing requirements for initial in-person, face-to-face visits between the physician and the patient prior to the telemedicine medical service.
- Distinguishing between the reimbursable fee-for-service (FFS) and managed care telemedicine medical services delivery modalities.
- Adding requirements for valid prescriptions generated from a telemedicine medical service.

The procedure code changes proposed by HHSC do not directly affect the ability of health centers to provide telemedicine services through a third party contractor. Therefore, TACHC will not take a position on these proposed amendments.

## **b. TELEHEALTH**

The draft policy defines telehealth services as health care services, other than telemedicine medical services, delivered by a health professional licensed, certified, or otherwise entitled to practice in Texas and acting within the scope of the health professional's license certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.

Per the current telehealth policy, **health centers may serve as the patient site presenter and contract with a third party distant site.** Any arrangement where an FQHC bills an encounter payment to Medicaid on behalf of another provider that is not employed by the FQHC would constitute an affiliate agreement under state rules and would have to be approved by HHSC.



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TACHC is supportive of the major amendments related to SB 1107, particularly:

- Revising the definition of telehealth services within Texas Medicaid.
- Aligning telehealth service delivery modalities and operational requirements with those for telemedicine medical services.

Under the telehealth policy amendment, FQHCs may be reimbursed through Medicaid to act as the distant site provider performing the consultation. Table A of the draft policy lists provider type 50 (an FQHC) as a provider type eligible to render telehealth services.

The procedure code changes proposed by HHSC do not directly impact the ability of health centers to provide telehealth services as a distant site provider. Therefore, TACHC will not take a position on these proposed procedure code amendments. However, TACHC recommends revisions to the “places of service” codes relevant to FQHC’s. Per Table A, the places FQHC’s may provide services include pharmacies (1), Indian Health Service free-standing facilities (5), and prison correctional facilities (9). Schools (3) and homeless shelters (4) should be added to this list, as some health centers provide services at these sites.

Thank you for the opportunity to provide comments on this important policy and to work closely with the state to make a real difference in the health outcomes of Texas families. Please do not hesitate to contact me at [jcamacho@tachc.org](mailto:jcamacho@tachc.org) or (512) 329-5959 with questions about these comments.

Sincerely,

José E. Camacho  
Executive Director and General Counsel  
Texas Association of Community Health Centers