

Administrative Procedures – Emergency Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.


This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). The nature of the peril is the COVID-19 outbreak that is the subject of the all-hazard State of Emergency proclaimed by the Governor on March 16, 2020.

I approve the contents of this filing entitled:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

 , on 03/30/2020
 (signature) (date)

Printed Name and Title:

Michael S. Pieciak

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Emergency Rule Coversheet
Commissioner of Financial Regulation

Emergency Rule Coversheet

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Sebastian Arduengo

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620 - 3101

Telephone: 802 828 - 4846 Fax: 802 828 - 5593

E-Mail: Sebastian.Arduengo@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Gavin Boyles

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620 - 3101

Telephone: 802 828 - 1425 Fax: 802 828 - 1919

E-Mail: gavin.boyles@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

N/A

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

N/A

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

This rule is issued pursuant to the authority vested in the Commissioner of the Department of Financial Regulation by Act 91 of 2020.

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

ACT 91 OF 2020, SECTION 8 REQUIRES THE COMMISSIONER TO CONSIDER ADOPTING AND GIVES THE COMMISSIONER THE AUTHORITY TO ADOPT EMERGENCY RULES FOR THE DURATION OF THE STATE OF EMERGENCY EXPANDING PATIENTS' ACCESS TO AND PROVIDERS' REIMBURSEMENT FOR HEALTH CARE SERVICES, INCLUDING PREVENTATIVE SERVICES, INCLUDING PREVENTATIVE SERVICES, CONSULTATION SERVICES, AND SERVICES TO NEW PATIENTS, DELIVERED REMOTELY THROUGH TELEHEALTH, AUDIO-ONLY TELEPHONE, AND BRIEF TELECOMMUNICATION SERVICES.

8. CONCISE SUMMARY (150 WORDS OR LESS):

During the COVID-19 State of Emergency, the emergency rule requires health insurers and workers' compensation insurance carriers to provide coverage for clinically appropriate health care services delivered remotely through telehealth or audio-only telephone on the same basis as in-person consultations. The emergency rule also requires health insurers to cover telephone triage calls without member cost sharing, and implements the provisions of Act 91 with respect to services delivered by store-and-forward means. Finally, the rule temporarily waives compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) consistent with guidance issued by the Department of Health and Human Services.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The emergency rule is necessary in order to prevent Vermonters from unnecessarily traveling to health care facilities, further protect the most vulnerable Vermonters, and ensure that providers in commercial insurance networks are reimbursed for medically necessary and clinically appropriate services provided through telehealth, telephone, and store-and-forward means.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

On March 16, 2020, the Governor proclaimed an all-hazard State of Emergency proclaimed due to the Covid-19 outbreak. At this time, the Vermont Department of Health is advising individuals who are sick or concerned about their health to contact their health care providers by phone. Consequently, telephone triage calls to providers have increased by 500%, office visits and other revenue-producing activities have dropped dramatically, and many providers are in dire financial straits. The emergency rule narrowly addresses these issues, allowing providers to be reimbursed for telephone triage calls, and expands coverage and reimbursement for telemedicine, audio-only telephone, and store and forward means.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Health insurers and workers' compensation insurance carriers regulated by the Department of Financial Regulation;

Health care providers;

Members of health insurance plans;

Workers' compensation beneficiaries.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Responding to the COVID-19 pandemic requires the provision of health care services by physicians or other health care professionals through remote communications devices, including audio-only telephone. Facilitating the reimbursement for such services by health insurers is expected to significantly decrease the financial burden on these providers while limiting out-of-pocket costs for patients. Health Insurers and workers' compensation insurance carriers are expected to pay the same amount for telehealth consultations as for in-person office visits. Health insurers will pay a nominal amount for telephone triage services.

13. A HEARING IS NOT SCHEDULED .

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Emergency Rule Coversheet

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 03/30/2020

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

09/30/2020

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Health Insurance

Workers' Compensation Insurance

Telehealth

Audio-only Telephone

CORONAVIRUS

Covid-19

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Workers' Compensation Insurers

Health Insurers

Health Care Providers

Insured Patients

4. IMPACT ON SCHOOLS:

Economic Impact Analysis

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

None.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

N/A

6. **IMPACT ON SMALL BUSINESSES:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The emergency rule will allow small medical and mental health practices to be reimbursed for providing services by audio-only telephone or telehealth, if those providers do not have access to telemedicine equipment. It will also allow providers to be reimbursed for providing telephone triage services for patients.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Only workers' compensation insurers and health insurers are required to comply with the emergency rule; none of these organizations are small businesses.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Without the emergency rule, the provision of health care services to Vermonters during the COVID-19 outbreak could be impaired or delayed, and providers would not be reimbursed for providing services remotely. Material impairments or delays in the provision of health care services during the COVID-19 outbreak could have devastating economic consequences for individual patients and for the economy of the entire state.

9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

In light of the urgency of responding to the COVID-19 outbreak, the analysis described herein is sufficient to enact the emergency rule. The cost of the substantive changes are minimal or a net positive to Vermonters.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

None .

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

None .

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

None .

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None .

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None .

Environmental Impact Analysis

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

The emergency rule is not expected to have any environmental impacts. Therefore, the analysis is sufficient.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

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3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

Despite the unprecedented urgency of addressing the COVID-19 crisis, the Department of Financial Regulation sought extensive comment on the emergency rule.

In drafting the emergency rule, the Department solicited input from a broad array of stakeholders, including the Bi-State Primary Care Association, Vermont Care Partners, Vermont Medical Society, Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Office of the Health Care Advocate, Vermont Care Partners, Vermont Association of Adult Day Centers, Blue Cross and Blue Shield of Vermont, MVP Health Care, Cigna, and Aetna.

The Department has also been in constant communication with industry and the provider community, including multiple calls per week on responses to the Covid-19 pandemic.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The emergency rule will be posted on the Department's website.

In addition to ensuring the availability of materials relating to this rule online and in paper form, the Department will work with stakeholders to educate members of the public.

5. **BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

Bi-State Primary Care Association, Vermont Care Partners, Vermont Medical Society, Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Office of the Health Care Advocate, Vermont Care Partners, Vermont Association of Adult Day Centers, Blue Cross and Blue Shield of Vermont, MVP Health Care, Cigna, and Aetna.

Administrative Procedures – Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEPHONE, TELEHEALTH, OR STORE AND FORWARD MEANS

2. ADOPTING AGENCY:

Department of Financial Regulation

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

This rule incorporates laws and regulations of the State of Vermont, specifically Title 8, section 4100k and Title 21, section 601 of the Vermont Statutes Annotated (V.S.A.).

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE: 8 V.S.A. § 4100k; 21 V.S.A. § 601.

5. OBTAINING COPIES: *EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

All of the cited materials are available online at the following links:

Vermont Statutes Annotated:

<https://legislature.vermont.gov/statutes/>

Incorporation By Reference

Although all cited materials are readily available online, members of the public may obtain printed copies by contacting the Department by phone at 802-828-3301.

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

No modifications have been made to the cited material.

Run Spell Check

VERMONT DEPARTMENT OF FINANCIAL REGULATION

EMERGENCY RULE H-2020-02-E

**COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH
TELEHEALTH, TELEPHONE, OR STORE AND FORWARD MEANS**

Section 1. Purpose.

This emergency rule is promulgated pursuant to Act 91 of 2020 and in response to the State of Emergency declared by the Governor of the State of Vermont on March 16, 2020 regarding the outbreak of COVID-19. This emergency rule shall be in effect for the duration of the state of emergency. The purpose of this emergency rule is to expand patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services.

Section 2. Definitions.

Terms used in this emergency rule and not defined herein shall have the meanings given to such terms, if any, in 8 V.S.A. § 4100k and 21 V.S.A. § 601.

Section 3. Coverage of Telehealth and Audio-Only Telephone Services.

- (a) Where clinically appropriate, all health insurance plans and workers' compensation insurance carriers shall provide coverage for all health care services delivered remotely through telehealth or audio-only telephone by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. Services covered under this subsection shall include services that are covered when provided in the home by home health agencies.
- (b) Health insurance plans and workers' compensation insurance carriers shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telehealth or audio-only telephone.
- (c) A health insurance plan or workers' compensation insurance carrier may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered remotely through telehealth or audio-only telephone so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.
- (d) A health insurance plan shall cover the same the number of telemedicine consultations as in-person covered services for each covered person.
- (e) Health insurance plans and workers' compensation insurance carriers may require providers to use telemedicine when clinically appropriate, available, and feasible.

- (f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.
- (g) Health insurance plans and workers' compensation insurance carriers may require practices to notify members in advance that services delivered remotely through telehealth or audio-only telephone will be billed as an in-person visit. Any such notification requirements shall permit providers to notify members during the same call in which services are rendered. No other consent to receive services remotely shall be required.
- (h) Health insurance plans and workers' compensation insurance carriers shall not require providers to have an existing patient relationship with a member in order for the member to be reimbursed for health care services described in subsection (a).

Section 4. Coverage of Telephone Triage Services.

- (a) All health insurance plans shall provide coverage and reimbursement for Healthcare Common Procedure Coding System (HCPCS) code G2012 (virtual check-in via telephone) to allow providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed.
- (b) Health insurance plans shall not charge a deductible, co-payment, or coinsurance for telephone triage services.

Section 5. Coverage of Store and Forward Services.

- (a) All health insurance plans shall provide coverage and reimbursement for store and forward HCPCS code G2010 (remote evaluation of a recorded video or image) to determine whether an office visit or other service is needed without member cost-sharing.
- (b) Provisions of Act 91 of 2020 relating to coverage and reimbursement for health care services or dental services delivered by store-and-forward means shall take effect on May 1, 2020 if a declared State of Emergency related to COVID-19 exists at that time.

Section 6. Claims Retroactivity.

All health insurance plans shall process and reimburse appropriate claims for telephone triage services and health care services delivered through telehealth or audio-only telephone retroactively to a date no later than March 13, 2020.

Section 7. Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Consistent with guidance issued by the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) announcing enforcement discretion for noncompliance with the regulatory requirements under the HIPAA Privacy, Security and Breach Notification Rules against covered health care providers in connection with the good faith provision of telehealth

during the COVID-19 nationwide public health emergency, health insurance plans and workers' compensation insurance carriers shall permit providers to utilize any non-public facing remote communication product that is available to communicate with patients.

Further guidance is available on the HHS website at: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Section 8. Mental Health Parity.

Health insurance plans may not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental condition delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services than for access to treatment for other health conditions, including no greater co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care provider under an insured's policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist provider under an insured's policy.

Section 9. Physical Location of Remote Services.

Health insurance plans and workers' compensation insurance carriers may not deny or limit coverage or reimbursement of health care services delivered remotely through telehealth, audio-only telephone, store-and-forward, and brief telecommunication services based solely on the physical location of the patient or provider.