

**STATE OF VERMONT  
DEPARTMENT OF FINANCIAL REGULATION**

IN RE: CODING AND REIMBURSEMENT )  
FOR AUDIO-ONLY TELEPHONE SERVICES )  
REQUIRED BY ACT 6 OF 2021 )  
)  
)

Docket No. 22-019-I

**ORDER**

WHEREAS, the Commissioner of Financial Regulation (the “Commissioner”) is responsible for administering and enforcing the insurance laws and regulations of the State of Vermont;

WHEREAS, Act 6 of 2021, Section 6, required the Department to work in consultation with the Department of Vermont Health Access (DVHA), the Green Mountain Care Board (GMCB), representatives of health care providers, health insurers, and other interested stakeholders to determine:

- (a) appropriate billing and payment codes or modifiers for audio-only telephone services;
- and
- (b) reimbursement rates for audio-only telephone services.

WHEREAS, the Department solicited and received proposals from interested parties, including the Department of Vermont Health Access (DVHA), Cigna, MVP Health Care, Blue Cross Blue Shield of Vermont, and the Coalition of Health Care Associations as to coding and reimbursement for audio-only telephone services.

WHEREAS, the Department has consulted with Department of Vermont Health Access (DVHA), and GMCB.

NOW THEREFORE, the Commissioner makes findings and ORDERS as follows:

## **FINDINGS OF FACT**

1. This Order incorporates by reference paragraphs one through twenty-eight of the Department's Order dated June 29, 2021 in Docket 21-026-I. That Order is available on the Department's website at: <https://dfr.vermont.gov/sites/finreg/files/regbul/dfr-order-docket-21-026-i-audio-coding.pdf>
2. On May 21, 2022, the Department met with stakeholders representing GMCB, DVHA, providers, insurers, and the Office of the Health Care Advocate and solicited proposals as to coding and reimbursement for audio-only telephone services for Plan Year 2023, beginning January 1, 2023.
3. During the May 21 meeting, the Department presented preliminary data derived from the Vermont Health Care Uniform Reporting and Evaluation System (VHCURES) and prepared by Vermont Program for Quality in Health Care (VPQHC). While the results and methodology must be finalized, the data showed that telephone-specific evaluation and management (E/M) codes, claims with a place of service code of "99 – other," and V3 and V4 modifiers can all be identified in the VHCURES data.
4. The Department received comments and proposals from Representative Lori Houghton, Representative Alyssa Black, Blue Cross Blue Shield of Vermont (BCBSVT), HealthFirst, Inc., Dartmouth Health, Bi-State Primary Care Association, the University of Vermont Health Network, the Vermont Medical Society, and the Vermont Association of Hospitals and Health Systems.
5. In their comments, Representatives Houghton and Black expressed concern that health insurer reimbursement policies implementing the Department's prior Order in Docket 21-026-I reimbursed primary care providers less than mental health providers billing the same codes.

6. In general, provider organizations commented that the Department's prior Order in Docket 21-026-I, which permitted insurers to reimburse providers for audio-only services at a rate no less than 75% of the rate for equivalent in-person or audio/visual telemedicine covered service, resulted in providers limiting the availability of audio-only services.

7. Data submitted by the University of Vermont Health Network shows that audio/visual telemedicine and audio-only visit volume (as a percentage of all visits) fell from 11.55% to 8.68% and from 2.63% to 2.13%, respectively, between January and May of 2022 with family medicine making up the largest share of audio/visual telemedicine and audio-only visits.

8. BCBSVT commented that it continues to be concerned about the quality and value of audio-only care relative to either audio-visual telemedicine or in-person care. BCBSVT further commented that all audio-only mental health visits, regardless of provider type, are being reimbursed at parity with in-person services, and that visits initiated as audio-visual telehealth were reimbursed at parity with in-person services, even if the visit moved to audio-only for any reason.

### **ORDER**


NOW, THEREFORE, based on the above Findings of Fact, the Commissioner ORDERS as follows:

1. Terms used herein have the meanings given to such terms, if any, in 8 V.S.A. §§ 4100k, 4100l and 18 V.S.A. §§ 4601, 9402.
2. Beginning on January 1, 2023:
  - a. Health insurance plans shall provide reimbursement for audio-only telephone services billed using accepted CPT language and definitions including both CPT codes for in-person services and telephone-specific E/M codes.

- i. Audio-only telephone services using the CPT code for in-person services shall be reimbursable if the claim is submitted with a **V3 modifier** or any more specific, nationally-recognized successor modifier that may subsequently be adopted by the American Medical Association (to indicate “service delivered via telephone, i.e., audio-only”) and a place of service code of “**99 – other.**”
  1. The V3 modifier should not be used with telephone-specific E/M codes.
  2. Commercial health insurance plans may additionally reimburse audio-only telephone claims with a **V4** modifier to allow differential reimbursement.
    - a. Plans may only use differential reimbursement for audio-only services, as provided in subparagraph b below.
    - b. Plans may not reimburse different provider types differently for performing the same service.
- ii. In determining which codes are clinically appropriate for audio-only delivery, commercial health insurance plans shall consider providers’ clinical judgment, as documented in the medical record under Act 6. Commercial health insurance plans are also encouraged to align as closely as possible with codes identified by Vermont Medicaid as “telephone allowable.” Nothing in this order, however, shall be construed to require commercial payers to reimburse Medicaid-specific codes.

- b. Health insurance plans shall reimburse providers for audio-only services at a rate no less than 75% of the rate for equivalent in-person or audio/visual telemedicine covered service.
  - i. Plans are strongly encouraged to negotiate rates with providers for audio-only telephone services that reflect their clinical value, including reimbursing E/M codes recognized by the American Medical Association (AMA) as having a “straightforward” or lower level of Medical Decision Making (MDM) at parity with in-person services. More information on MDM is available on the AMA website: <https://www.ama-assn.org/system/files/2019-06/cpt-revised-mdm-grid.pdf>.
  - ii. Telephone-specific E/M codes with no in-person equivalent shall be reimbursed subject to the terms of the health insurance plan and provider contract.
- 3. Visits initiated in good faith over audio/visual telemedicine which switch to audio-only for any reason shall be reimbursed according to 8 V.S.A. § 4100k(a)(2)(A).
- 4. This Order shall remain effect until December 31, 2023, or until rescinded or superseded by further order of the Commissioner.
- 5. This Order shall be governed by and construed under the laws of the State of Vermont.

ENTERED at Montpelier, Vermont, this 24th day of June 2022.

  
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KEVIN GAFFNEY, Interim Commissioner  
Vermont Department of Financial Regulation