

# PUBLICATION

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## Maryland Telehealth Update: RPM, Store and Forward and Looking Ahead

January 22, 2018

**The Maryland Medicaid telehealth landscape saw some expansion in late 2017. The growth may not go as far as stakeholders desire, but it is movement nonetheless.**

In the early fall, the Maryland Medicaid program amended its telehealth regulations with two notable changes, both of which were adopted in September. The first added substance abuse services to the list of reimbursed services provided by distant site telehealth providers. COMAR 10.09.49.11. The second clarified the scope of coverage and reimbursement of asynchronous (store and forward) technology. Store and forward technology was not previously considered to meet the definition of *telehealth* and therefore was not covered or reimbursed as part of the Maryland Medical Assistance Program's telehealth benefit. COMAR 10.09.49.10. The amended regulations, however, carve dermatology, ophthalmology, and radiology services from the definition of *store and forward technology*. COMAR 10.09.49.02. In effect, these amendments allow program coverage and reimbursement for these specialty services when provided using store and forward technology, commonly referred to as tele-dermatology, tele-ophthalmology or tele-radiology, while maintaining the program's limitation on coverage and reimbursement for store and forward technology generally. See *Telehealth Provider Manual* 5 n.5 (Jan. 3, 2018). This expansion of coverage for a service commonly considered to fall within the category of telehealth is unique in that it was accomplished outside of the telehealth benefit. It will be interesting to see whether the silo treatment of store and forward technology will allow for continued expansion of its coverage and reimbursement as such services will not be subject to telehealth-related limitations.

In December, the Medical Assistance Program adopted rules expanding its telehealth benefit to include coverage and reimbursement for remote patient monitoring (RPM). COMAR 10.09.96. The regulations allow for RPM of chronic obstructive pulmonary disease (COPD), congestive heart failures and diabetes, which does not come as much of a surprise as the benefits of and need for increased monitoring of these fragile patient populations have been advocated at the federal level as well as in proposed Medicare legislation. Providers eligible to perform RPM are limited to physicians, physician assistants, certified nurse practitioners or home health agencies when RPM is prescribed by a physician. Patients eligible to receive RPM must have one of the above-listed conditions and, within the prior 12 months, must have been admitted to the hospital twice, had two emergency department visits or had one hospital admission and one emergency department visit. As expected, the services must be medically necessary, which among other things means they are not being provided primarily for the patient's convenience. Though RPM is allowed for patients with chronic and presumably long-term conditions, patients may not receive more than two months of RPM per episode and no more than two episodes per year. The rules became effective on January 1, 2018.

Further expansion is on the horizon:

- The Maryland Medical Assistance program proposed regulations in December that would add Federally Qualified Health Centers as a distant site provider and physician assistants as both distant site providers and originating sites. Comments will be accepted through January 22, 2018.
- The Board of Physicians drafted regulations in December governing the practice of medicine using telehealth. Comments were accepted through December 22, 2017 and a Board meeting to discuss the regulations is scheduled for January 24, 2018. Per communications with the Board, once the regulations are finalized there may be another opportunity for stakeholder comment.

- The Board of Psychologists published proposed telepsychology regulations in the January 19th, register issuance. Comments will be accepted through February 20, 2018.
- It is our understanding that the Board of Social Work is working on teletherapy regulations.

If you have any questions regarding the content of this alert, please contact any member of the [Baker Ober Health Law Group](#).