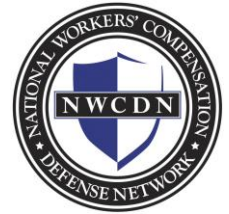


**Covid-19
Telemedicine During a Pandemic
As of 05.20.2020**



State	Contact	Resource
Alabama	Michael I. Fish mfish@fishnelson.com	<p>In Alabama, there are no special rules or guidelines regarding the use of telemedicine in a workers' compensation claim. The Alabama State Board of Medical Examiners has stated that the Board and Commission encourage practitioners to utilize telehealth visits whenever it is prudent to do so. Board and Commission rules will be interpreted broadly during the health emergency. Physicians may not refuse to treat existing patients.</p> <p>If the physician does not have the manpower, equipment, etc., to treat the patient, and treatment via telemedicine is not possible or appropriate, they should assist the patient in finding another provider. At least one Alabama WC provider network that we know of is scheduling a lot of telehealth physical therapy right now using the same HCPCS codes and fee schedule. The place of service code is different but that does not affect PT reimbursements.</p>
Alaska	Michelle Meshke mmeshke@akwcdefense.com	We do allow telemedicine. Nothing about COVID changes that to my knowledge.
California	Ericka Dunn edunn@hannabrophy.com	Currently proposed rules are being circulated for public comment, not yet finalized/approved. Absent order, the current rule is that both parties have to agree to telemedicine. I have attached the order addressing compensation and billing for telehealth.
Colorado	Kim Starr kim.starr@ritsema-lyon.com	Colorado does provide for telehealth under the medical treatment guidelines and the fee schedule. The director issued an emergency telemedicine order also addressing use of audio and visual equipment for conducting telehealth appointments.
Delaware	Maria Paris Newill mnewill@hfdel.com	<p>Delaware allows any treatment that is reasonable, necessary and causally related to the compensable injury submitted as a "clean claim" in keeping with our treatment protocols (see 19 Del. C. section 2322D and 2322(F)).</p> <p>All medical providers need to be "certified" under the Delaware Workers' Compensation Statute and submit bills as "clean claims" in order to receive payment (see 19 Del. C. section 2322D and 2322(F)).</p>
Florida	Robert Grace, Jr. rgrace@bbdglaw.com	Florida allows telemedicine to treat workers compensation claimants. There are no special rules.
Hawaii	Kenneth Goya	We allow telemedicine for both treating an injured worker and

	kenneth.goya@hawadvocate.com	for IMEs. There are no special rules for this.
Illinois	Robert Maciorowski rmaciorowski@msulaw.com	In Illinois, they would allow telemedicine as long as it was performed by a qualified medical provider.
Indiana	Diana Wan dlwann@wmlaw.com	Medical care must be reasonable and necessary and telemedicine will be analyzed in that statutory context.
Iowa	Steven Durick steved@peddicord.law	The injury would be treated as compensable. COVID-19 has not impacted this analysis.
Kansas	Kim Martens Kim@martensworkcomplaw.com	<p>Telemedicine is listed in the 2019 SCHEDULE OF MEDICAL FEES for workers compensation in Kansas: APPENDIX A – MODIFIERS – 95 (p. 381) “Synchronous Telemedicine Service Rendered Via a Real-Time Interface Audio and Video Telecommunications System: Synchronous telemedicine service is defined as a real-time interaction between a physician or other qualified health care professional and a patient who is located as a distant site from the physician or other qualified health care professional.</p> <p>The totality of the communication of information exchanged between the physician or other qualified health care professional and the patient during the course of the synchronous telemedicine service must be of an amount and nature that would be sufficient to meet the key components and/or requirements of the same service when rendered via a face-to-face interaction. Modifier 95 may only be appended to the services listed in Appendix P. found within the 2018 Current Procedural Terminology by the American Medical Association. Appendix P is the list of CPT codes for services that are typically performed face-to-face but may be rendered via a real-time (synchronous) interactive audio and video telecommunications system.”</p>
Kentucky	Doug Jones djones@joneshowardlaw.com	There are no provisions in the Kentucky workers' compensation statute or the workers' compensation administrative regulations addressing telemedicine.
Louisiana	Sidney W. Degan, III sdegan@degan.com	<p>Louisiana has issued Emergency Rule 37, which specifically addresses the rules regarding telemedicine during the pandemic. Pursuant to Section 3307, insurers must waive any limitation on the use of audio-only telephonic consultations in the provision of telemedicine services, including the use of personal devices, to the extent permitted under federal guidelines.</p> <p>Pursuant to Section 3309, insurers must waive coverage limitations restricting access to providers included within a plan's telemedicine network. Insurers must also waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine. Pursuant to Section 3311, insurers shall cover telemedicine consultations between a patient and a provider</p>

		to the extent the same services would be covered if provided in person. A complete copy of Emergency Rule 37 is available at the following link: http://www.lidi.la.gov/docs/default-source/documents/legaldocs/rules/rule37-cur-telemedicineandnet.pdf?sfvrsn=f12f4f52_18
Maine	Elizabeth Smith esmith@verrilldana.com	Maine has not taken a position on telemedicine to date, which means that it might be covered. There has not been a test case and no rulemaking has been implemented thus far.
Massachusetts	Thomas O'Reilly TOReilly@cmopc.com	<p>In the past Massachusetts had restrictions on telemedicine, but on March 15, Governor Baker issued an <u>Order Expanding Access To Telehealth Services And To Protect Health Care Providers</u>, a copy of which is attached. A National Review article explains that this order relaxes some of the restrictions imposed by G.L. 175, §47BB. The National Review Article can be found here: https://www.natlawreview.com/article/telehealth-massachusetts-covid-19-inspires-relaxed-telemedicine-technology.</p> <p>The DIA issued a Telehealth Bulletin following Governor Baker's Emergency Order. "Pursuant to Governor Baker's State of Emergency Order in response to the COVID-19 pandemic, telehealth services will be allowed under M. G. L. c. 152 § 13(1) and § 30, and are effective for services beginning March 16, 2020 and will remain in place until the State of Emergency has been lifted by Governor Baker. If the treatment has been deemed reasonable, necessary, and appropriate, the codes and rates for services as outlined in 114.3 CMR 40.00 shall be utilized. The Place of Service (POS) code shall be "02" to denote that the service has been delivered via telehealth.</p> <p>The Department is not imposing specific requirements for technologies used to deliver services via telehealth. However, health care practitioners must inform patients of any relevant privacy considerations. Regulatory Authority: 114.3 CMR 40.00, M. G. L. c. 118G, M. G. L. c. 152 § 13(1) and 30." Link to Rates for Service under Workers' Compensation Act: https://www.mass.gov/doc/rates-for-services-under-mgl-c-152-workers-compensation-actapril-1-2009-0/download</p>
Michigan	James Ranta James.Ranta@crh-law.com	<p>Michigan does currently allow the utilization of telemedicine for treatment of a workers' compensation claimant. Since the start of the COVID-19 pandemic, and the subsequent stay-at-home Order issued by Michigan's Governor, telemedicine has become increasingly common.</p> <p>The Director of the Workers' Disability Compensation Agency issued his own directive encouraging the use of telemedicine by employers/carriers and claimants whenever possible, particularly since many regular in-person follow-up appointments, elective surgeries, physical therapy appointments, etc., were being cancelled. It is unknown</p>

		whether it will remain a regular part of workers' compensation treatment once the pandemic has subsided, although I suspect that it will remain in place to some degree for routine follow-up medical visits that don't necessarily require an in-person meeting or examination. The fact that we don't presently know when the pandemic will actually subside means it will likely be utilized as a common practice for the foreseeable future.
Minnesota	Parker T. Olson Parker.Olson@cwk-law.com	Minnesota also allows for telemedicine in WC situations, and there are no special rules, at least yet. However, some doctors are requiring that the patient be seen in person prior to a release back to work, which can add some difficulty given the current pandemic.
Missouri	Katherine E. Anderson kanderson@simongrouppc.com	In Missouri, some physicians' offices are using telemedicine and it is becoming more common in light of Covid-19. At this point there are no special rules regarding the same.
New Hampshire	Kevin Stuart Kevin@Bernard-Merrill.com	NH allows telemedicine in the NH WC context. However, NH does not have any rules or regulations for telemedicine in the WC context.
New Jersey	Nicholas Dibble ndibble@capehart.com	New Jersey does allow telemedicine for the treatment of a workers' compensation claim.
New York	Susan Duffy sduffy@hwcomp.com	New York adopted emergency regulations to approve telemedicine during the state of emergency where medically appropriate and in accordance with Department of Health Medicaid Guidance and guidance from CMS. Treatment must still comply with NY's Medical Treatment Guidelines. CPT codes have been provided for all providers who are otherwise authorized to treat in New York. Telemedicine is permitted with audio/visual communication or by telephone.
North Carolina	Bruce Hamilton BHamilton@teaguecampbell.com	In North Carolina, we do allow for telemedicine in treating a workers compensation claimant. There are no special rules as of yet regarding this type of treatment. One issue that we have seen is that nurse case managers can join in the initial part of the evaluation, they then log off of the visit, so the employee can have a private evaluation and exam with the medical provider, and then they can be added back in to the phone call after the end of the exam, much like when they are called back into the doctor's office following the evaluation to discuss the results. However, that communication will sometimes get lost because of the technology involved and the nurse case manager does not get added back in at the end of the evaluation. It can cause a small delay in getting accurate information on what happened at the evaluation.
Ohio	Donald Lampert DLampert@Calfee.com	Telemedicine exists in Ohio but the doctors seem to be making their own rules. No regulations as of yet.
Oklahoma	John Valentine john@lottvalentine.com	There are no specific rules that control telemedicine in Oklahoma. It has not been the standard of care in Workers' Compensation claims. We have several clients that have agreed to use telemedicine given the current pandemic. We expect once the physicians' offices start to re-open,

		<p>telemedicine will not be used as often. Our clients want the physicians to perform a physical examination of the claimant and be able to determine the credibility of a patient in person.</p> <p>No one wants to use telemedicine for Workers' Compensation injuries, but we have allowed it to happen given the current circumstances in several cases.</p>
Oregon	<p>Matthew F. Denley MFD@cumminsgoodman.com</p>	<p>There appears to be no prohibition against telemedicine appointments by statute or rule. Indeed, some doctors/clinics have been practicing telemedicine for weeks now without incident.</p>
Pennsylvania	<p>Kevin Connors kconnors@connorsodell.com</p>	<p>Telemedicine is allowed for WC claims, and almost all elective treatment at this time, is being conducted through telemedicine; we do not have specific rules for this, as of yet.</p>
Rhode Island	<p>Linda Oliveira LOliveira@cmopc.com</p>	<p>Rhode Island has been allowing telemedicine. However, Rhode Island is beginning to re-open business including medical offices for non-COVID treatments. To date there have been no special rules regarding telemedicine treatment as in order to do so the Medical Advisory Board must meet and they have not been able to do so.</p>
South Carolina	<p>Nick Haigler nhaigler@robinsongray.com</p>	<p>We do allow telemedicine in SC, but we do not have any specific rules for same.</p>
South Dakota	<p>Laura K. Hensley lhensley@boycelaw.com</p>	<p>Our state does allow telemedicine for treatment of WC claimants and there are not special rules for this. Nurse Case Managers have found it difficult to participate, but the rules are still the same.</p>
Tennessee	<p>Fred Baker fbaker@wimberlylawson.com</p>	<p>Telehealth was not specifically permitted prior to the COVID-19. However, the Tennessee Bureau of Workers' Compensation recently issued a temporary guidance allowing telehealth visits by all providers to provide appropriate care continuation and to improve functional considerations for established workers' compensation patients.</p> <p>The providers may bill for telehealth visits using standard appropriate billing forms in accordance with CMS guidance and using applicable CPT codes. The visits must be paid in accordance with the Tennessee Medical Fee Schedule.</p>
Texas	<p>James Loughlin Jloughlin@slsaustin.com</p> <p>Jane Stone jstone@slsaustin.com</p>	<p>Certain telemedicine and telehealth services can be provided to injured employees in Texas. Injured employees may receive these services regardless of their geographic location. Telemedicine services must be provided by a physician licensed in Texas. Telehealth services are those provided by health care professionals other than physicians.</p> <p>The TDI website has a web page for telemedicine/telehealth in Texas workers' compensation: https://www.tdi.texas.gov/wc/hcprovider/telemed.html. This page includes a list of covered telehealth/telemedicine covered services as well as a list of requirements and conditions for payment. The Division of Workers' Compensation has adopted by reference the Medicare policies for telemedicine and telehealth except those policies that</p>

		<p>conflict with the Division’s adopted rules.</p> <p>In response to the COVID-19 pandemic, the Division adopted an emergency rule effective April 13, 2020 for physical medicine and rehabilitation services. The rule creates an exception to current Medicare distant site practitioner requirements. This emergency rule, effective for 120 days, allows health care providers licensed to perform physical medicine and rehabilitation services, including physical therapists, occupational therapists and speech pathologists, to bill and be reimbursed for services currently allowed under Medicare telemedicine and telehealth billing codes.</p> <p>On April 29, 2020, the Division issued a reminder to system participants that evaluations for maximum medical improvement (MMI) and impairment ratings (IR) cannot be conducted through telemedicine or telehealth. The billing codes for these evaluations are not included in Medicare’s list of telemedicine and telehealth services which the Division has adopted by reference at rule 133.30 and 134.203.</p>
Utah	Ford Scalley bud@scalleyreading.net	Utah has not yet addressed telemedicine in the context of treatment. I suspect most ALJ’s will allow evidence of telemedicine treatment to go to medical panels for their consideration of medical causation.
Vermont	Keith J. Kasper kjk@mc-fitz.com	Telemedicine has been approved especially for COVID issues.
Virginia	Lynn Fitzpatrick lfitzpatrick@fandpnet.com	There are no special rules for telemedicine. As far as I am aware, it is permitted and being used, if necessary during the pandemic.
Washington	Andrew H. Graham AHG@cumminsgoodman.com	<p>Some element of telemedicine was allowed before the pandemic (though the worker was required to be present at a medical facility, not his or her home, during the telemedicine appointment). The use of telemedicine has now been temporarily expanded, at least through July 3, 2020, to include appointments where the worker is simply being evaluated from his or her home (as opposed to traveling to a medical facility for telehealth with a remote physician).</p> <p>In addition, services not typically allowed through telehealth are now temporarily being allowed as well (through at least July 3, 2020), such as some IMEs (independent medical exams), group therapy, physical therapy, occupational therapy, speech therapy, . Video connection allowing for face-to-face communication is required for all telemedicine appointments.</p>
West Virginia	H. Dill Battle III hdbattle@spilmanlaw.com	There are no special rules in West Virginia for using telemedicine for workers' compensation claimants. House Bill 4003 was passed by the West Virginia Legislature on March 7, 2020, and approved by the Governor to mandate coverage for telehealth services for health insurance policies. The legislation generally requires an insurer to cover health care

		<p>services delivered through telehealth services if those same services would be covered in a face-to-face consultation under the insurance policy.</p> <p>In Emergency Order 20-EO-03, entered March 23, 2020, Insurance Commissioner Dodrill ordered that normal time standards for claims handling applicable to workers' compensation insurers and other regulated entities as set forth in title 85, series 1, section 10, of the West Virginia Code of State Rules are suspended until further notice, provided that workers' compensation insurers and other regulated entity shall continue to adjust workers' compensation claims as expeditiously as possible during the insurance emergency and shall utilize all possible methods of adjusting claims remotely, such as telephone, email, facsimile, and mobile applications, all the while striving to meet normal time standards for the adjustment and resolution of claims whenever possible. Workers' compensation insurers and other regulated entities shall prioritize claims adjustment and resolution strategies during this insurance emergency to ensure that high-priority claims are addressed before lower priority claims.]</p> <p>Importantly, Commissioner Dodrill ordered workers' compensation insurers and other regulated entities to review Executive Order 7-20 issued by Governor Jim Justice on March 19, 2020, and evaluate their telehealth and telemedicine programs to ensure utilization to the fullest extent possible. The use of telehealth or telemedicine can potentially reduce barriers for treatment as virtual office visits have been identified as a way of safely treating certain patients were claimant's while containing or limiting the spread of infection in hospitals, clinics and medical offices.</p>
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