

## FAQ: Telehealth and Transient Physician/Patient Questions



**General Disclaimer:** *The information is not intended to constitute legal advice or replace the advice of a qualified professional. Your judgment and interpretation of each situation is necessary and you should consult with your legal counsel and/or representatives of your professional liability insurance for specific situational guidance.*

**If a MA licensed physician travels outside of MA and into a state where they are unlicensed, can he/she/they still provide telehealth treatment for a patient located within MA?**

You look to where the patient is physically located when determining where medical care is provided. If you are outside of Massachusetts but the patient you are treating is physically located within Massachusetts, it would be permissible to treat the patient since you are providing medical care within Massachusetts.

**How should providers handle the continued treatment of patients who routinely spend extended periods of time outside of Massachusetts (e.g., winters in Florida).**

You should either obtain a license in the state where the patient routinely travels, or work with the patient to coordinate care with a provider licensed within that jurisdiction.

**Is it ok to send prescriptions out of state as long as no visit is conducted? Sometimes patients do travel out of state and call in for Rx.**

There is risk involved with filling prescriptions in a state where you are not licensed. There may be ways to mitigate the risk, like filling the prescription locally and having the patient coordinate with the pharmacy to transfer the prescription (if legally authorized). Please reach out to your risk department, legal counsel, and/or professional liability carrier if you have patient-specific questions.

**It is amazing to me the number of patients who come to Tufts MC from NH and CT to receive specialized care (pre-pandemic). It feels like these are grey areas and this reciprocity would be immensely helpful.**

We agree. Our Wellforce government relations team is actively supporting legislation that considers the realities of medical care today.

## Telehealth Payment Parity Questions

It is worth noting that there is pending legislation, i.e., HD. 2533 & SD. 2099, "An Act Relative to Telehealth and Digital Equity for Patients," which would remove the sunset for

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payment parity. This pending bill would also expand the definition of “chronic disease management services” covered by telehealth to include COVID-19 and its long term effects and children’s chronic diseases. We will continue to monitor the legislation.

### **Do I understand right that from mid-September we cannot treat acute sick visit by telehealth but can continue to treat chronic disease for 2 years?**

The two year extension relates to whether you will receive *payment parity* for telehealth services and does not impact the legality of providing telehealth services. “An Act Promoting a Resilient Health Care System that Puts Patients First” (signed January 1, 2021), provides *payment parity* with in-person services for primary care, behavioral health and chronic disease management until January 1, 2023. Primary care is statutorily defined as services delivered by a primary care provider. See Section 57 of Chapter 260 of the Acts of 2020. If you are a primary care provider, you may treat an acute sick visit by telehealth and receive payment parity. If you are not a primary care provider, and assuming the care does not fit within “chronic disease management,” you may not receive payment parity.

### **Do primary care visits alone without chronic conditions being specifically addressed in the visit continue to qualify for continued telehealth for the next 2 years?**

Yes. Primary care services provided by a primary care provider will continue to qualify for payment parity until January 1, 2023.

### **Will dietitian visits be covered under the chronic disease 2 year allowance?**

Chronic disease management includes “care and services for the management of chronic conditions, as defined by the federal Centers for Medicare and Medicaid Services, that include, but are not limited to, diabetes, chronic obstructive pulmonary disease, asthma, congestive heart failure, hypertension, history of stroke, cancer and coronary artery disease.” See Section 56 of Chapter 260 of the Acts of 2020. If the dietitian visit fits within the definition provided by the federal Centers for Medicare and Medicaid Services, it would qualify for payment parity until January 2023.

### **Was the list of chronic conditions listed for continued telehealth exhaustive, and do the visits need to be specific for these conditions?**

No. MA’s payment parity for “chronic conditions” cross references the federal Centers for Medicare and Medicaid Services definition. CMS identifies 21 chronic conditions, listed below, based upon ICD-10 codes.<sup>1</sup>

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<sup>1</sup> <https://www.cms.gov/Medicare/Coding/ICD10>

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Chronic Conditions <sup>2</sup>	
Alcohol Abuse	Drug Abuse/ Substance Abuse
Alzheimer's Disease and Related Dementia	Heart Failure
Arthritis (Osteoarthritis and Rheumatoid)	Hepatitis (Chronic Viral B & C)
Asthma	HIV/AIDS
Atrial Fibrillation	Hyperlipidemia (High cholesterol)
Autism Spectrum Disorders	Hypertension (High blood pressure)
Cancer (Breast, Colorectal, Lung, and Prostate)	Ischemic Heart Disease
Chronic Kidney Disease	Osteoporosis
Chronic Obstructive Pulmonary Disease	Schizophrenia and Other Psychotic Disorders
Depression	Stroke
Diabetes	

### Will the two-year payment parity apply to all payors?

Yes, the two-year payment parity for primary care, behavioral health and chronic disease management is required by statute.

### Would it be the recommendation that providers who practice near the border of NH and already have pts from that state obtain a license from NH?

It may be prudent to obtain a license in any state where you foresee providing medical care. If you are an employed physician, please contact your leaders about whether it makes sense for you and/or your group to obtain licensure outside of Massachusetts.

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<sup>2</sup> [https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Chronic-Conditions/CC\\_Main](https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Chronic-Conditions/CC_Main)