



**BLBA BULLETIN NO. 22-01**

Issue Date: March 4, 2022

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Expiration Date: When Incorporated into the Division of Coal Mine Workers' Compensation (DCMWC) Procedure Manual

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**Subject:** Bulletin 20-02 – Authorizing Telemedicine for Routine Medical Services on a Permanent Basis

**Background:** On June 4, 2020, DCMWC issued Bulletin 20-02 – Telemedicine for Routine Medical Services. The bulletin implemented temporary procedures to allow for the use of telemedicine services for some medical treatments provided to miners entitled to benefits under the Black Lung Benefits Act when payable by the Black Lung Disability Trust Fund. In particular, the Division of Coal Mine Workers' Compensation (DCMWC) found it appropriate to allow telemedicine services in place of in-person non-emergency, routine medical services provided by physicians and other health care professionals (HCPs) who work under a physician's supervision. Telemedicine had been intended to protect DCMWC claimants from the risks associated with COVID-19, and to allow for medical treatment at a time when a number of cities, states, and localities had implemented "shelter in place" or "stay-at-home" orders, requiring the closure of non-essential services, and limiting the movements and travel of their residents.

On December 13, 2021, President Joseph R. Biden, Jr. signed Executive Order 14058, *Transforming Federal Customer Service Delivery to Rebuild Trust in Government*. In part, the Executive Order directs the Secretary of Labor to "update existing rules and policies, consistent with applicable law and to the extent practicable, to allow individuals entitled to medical treatment under their workers' compensation plans to conduct their routine medical treatment appointments using telehealth platforms." Exec. Order No. 14058, 86 Fed. Reg. 71357, 71359-60 (Dec. 16, 2021).

DCMWC will make telemedicine treatment available to miners receiving benefits on a permanent basis, in accordance with the Executive Order. Bulletin 20-02 will remain in effect until the issuance of this Bulletin, after which the temporary procedures and processes associated with telemedicine will continue on a permanent basis.

In issuing this Bulletin, DCMWC is fully aware that some treating physicians and HCPs may be constrained in their ability to provide telemedicine services by the requirements of either state law or their licensing authorities. This Bulletin should not be interpreted as countermanding or

absolving the responsibility to follow those requirements. Such requirements may include, for example, that the physician or HCP be physically located in the same state as the miner's residence while providing services via telemedicine, or that the physician or HCP be licensed to practice in the state where the miner resides. The use of telemedicine services described in this Bulletin is optional, not required.

**Applicability:** Appropriate DCMWC personnel

**Purpose:** To provide guidance to DCMWC staff in allowing and paying for routine medical services utilizing telemedicine when payment is made from the Black Lung Disability Trust Fund.

**References:** Executive Order 14058, 20 CFR 725.701, 20 CFR 725.705, 20 CFR 725.706, 20 CFR 725.707, 20 CFR 725.708, BLBA Bulletin 20-02.

**Action:**

1. In accordance with DCMWC regulations, policies and procedures, physicians (including pulmonologists) and other HCPs may provide routine medical care through telemedicine when that care is associated directly with an accepted condition as outlined under 20 CFR 725.701(e)(1).
2. A physician or other HCP can choose to conduct routine medical treatment utilizing telemedicine options (including phone, video conferencing or similar technologies) that they believe will provide appropriate medical treatment to the miner, while maintaining the miner's privacy and safeguarding all protected health information.
3. If, in the exercise of their professional judgment, a physician determines that the miner's needs require an HCP on-site with the miner during a telemedicine service, the physician can have a Registered Nurse (RN), Advanced Practice Nurse Practitioner (APNP), or Physician Assistant (PA) present with the miner during the telemedicine service.
4. Physicians and HCPs treating miners via telemedicine can bill utilizing appropriate telemedicine billing codes, listing the miner's address as the location of delivery of the medical care. HCPs who were present at the miner's location during a telemedicine service can bill using non-telemedicine billing codes appropriate to their visit. Along with the bill for services, the physician or HCP must provide the following information:
  - a. A note stating the method of telemedicine used;
  - b. Any vitals or medical evidence collected; and

- c. An outline of the medical need and the benefit derived from the service, as it relates to the miner's accepted condition.

5. DCMWC staff will conduct reviews of this documentation to monitor and verify that the requirements for payment were met. If discrepancies are identified, DCMWC staff will work with the physician or HCP to resolve any issues before attempting to recoup any payments made.

**Disposition:** Retain this Bulletin until incorporated into the DCMWC Procedure Manual.

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