

U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation
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BULLETIN NO. 21-06

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Effective Date: September 30, 2021

Expiration Date: March 31, 2022

Subject: This Bulletin extends the expiration date of Bulletin 21-02, Telemedicine for Home and Residential Health Care (HRHC) and Durable Medical Equipment (DME).

Background: In response to the COVID-19 public health emergency, a growing number of cities, states, and localities have implemented "shelter in place" and/or "stay-at-home" orders, requiring the closure of non-essential services, and limiting the movements and travel of their citizens. During this time, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) recognizes the need to implement temporary procedures to allow for the use of telemedicine in place of face-to-face examinations for HRHC and DME evaluations, until such time pandemic restrictions are no longer necessary and are lifted.

While DEEOIC is issuing this Bulletin in response to the current public health emergency and to provide temporary procedures for staff to apply until the effects of the pandemic have lessened, DEEOIC is fully aware that some treating physicians may be constrained in their ability to practice telemedicine by the requirements of their state licensing authorities. DEEOIC recognizes that such requirements must be observed by physicians in states where they apply. Nonetheless, DEEOIC is issuing these temporary procedures to provide physicians who have the ability to do so, with an alternative method by which they may satisfy the regulatory requirement for a face-to-face examination. The procedures described in this Bulletin are therefore optional rather than required.

References: Federal (EEOICPA) Procedure Manual (PM) Version 5.0, Chapter 29 - Ancillary Medical Services and Related Expenses. PM Chapter 30 - Home and Residential Health Care. 20 C.F.R. § 30.400; 20 C.F.R. § 30.403; 20 C.F.R. § 30.406; 20 C.F.R. § 30.410.

Purpose: To provide temporary guidance to DEEOIC staff in the evaluation of evidence obtained from a physician choosing to exercise the option of conducting a "face-to-face" examination using telemedicine.

Applicability: All staff.

Actions:

1. In accordance with DEEOIC policy and procedure, it is necessary currently for claimants to undergo a face-to-face examination with their physician within 60 days of the date of a Letter of Medical Necessity (LMN) supporting any request for a claimant to receive HRHC or DME. Because of new restrictions imposed to limit interpersonal contact, DEEOIC is temporarily permitting Medical Benefit Examiner (MBE) staff to accept LMNs that a physician prepares using information collected from alternative methods of patient evaluation. The exceptions from the usual face-to-face examination requirements include ongoing HRHC or DME at an existing level of care, and telemedicine options for new or increased care. Telemedicine will occur only under those circumstances where the physician has the legal or licensing authority to conduct such an examination. It will also occur only under those circumstances where the claimant's physician has chosen to undertake such an evaluation.

2. During this period of heightened concern regarding high-risk populations, the MBE is to review the circumstance of a request for continuing the HRHC/DME at the previously approved or existing level. While the MBE must obtain a well-rationalized LMN supporting a need for renewal, if a physician reports being unable to see a claimant face-to-face for medical reasons, the MBE may grant an allowance to extend the current level of HRHC/DME for a new period of authorization. In the absence of a LMN where the physician reports the inability to perform a face-to-face examination, the MBE is to obtain evidence of either a face-to-face examination, or telemedicine consistent with the guidelines for new or increased care below.

3. Upon receipt of a LMN for an initial request for HRHC/DME or increased level of HRHC, the MBE carefully reviews the LMN and

any other relevant medical evidence submitted with the request. When weighing the evidence for a decision regarding authorization, the MBE may accept that a face-to-face examination occurred within 60 days of the LMN when the evidence establishes the following:

- a. The LMN or other evidence submitted from the claimant's physician explains that the physician conducted a face-to-face evaluation of the claimant using remote video conference, via computer or mobile devices. The physician may use any viable software or technology to conduct the video conference, as long as the physician attests to having visually interacted with the claimant. While the physician can assess the claimant using a video connection, the MBE must obtain evidence that a Registered Nurse (RN), Advanced Practice Nurse Practitioner (APNP), or Physician Assistant (PA) was present with the claimant during the physician's video conference. The presence of the RN, APNP, or PA is necessary to ensure the physician is able to obtain physical findings or other expert medical input necessary for a comprehensive physical assessment of the claimant.

4. In the circumstance where the MBE receives a LMN or other evidence in which it is unclear whether a face-to-face evaluation occurred, either in person or through the accommodation of a video conference, the MBE is to undertake development. The MBE is to provide notice to the physician regarding the need for a face-to-face evaluation and the allowance for video conference evaluation. The MBE is to stipulate in any development regarding a face-to-face evaluation involving video conference that the physician must conduct the evaluation in compliance with his or her legal or licensing authority. Moreover, the MBE is to advise the physician that any evaluation conducted remotely must be coordinated with a RN, APNP, or PA who must be present with the claimant during the video evaluation.

5. Once the MBE receives sufficient evidence to establish that a face-to-face evaluation occurred within 60 days of the LMN, the MBE will proceed with their evaluation of the HRHC or DME request in accordance with established policies and procedures. If the MBE is unable to obtain evidence that a qualifying face-to-face evaluation occurred, the MBE may proceed with a decision to deny the claim.

6. DEEOIC will treat the cost for the evaluation of the claimant by the physician using video conference technology, as the same as if it had occurred in the physician's office. DEEOIC will reimburse time and services provided by the RN, ARNP, or PA in accordance with current home billing without any prior approval required.

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