

Section 325-1.8 of Title 12 NYCRR is hereby amended to read as follows:

325-1.8 Emergency medical aid and telemedicine.

- (a) In the event of a serious accident requiring immediate emergency medical aid, an ambulance or any physician may be called to give first aid treatment.
- (b) Telemedicine, using two-way audio and visual electronic communication, or treatment via telephone, may be used by authorized providers where medically appropriate for social distancing purposes due to the outbreak of COVID-19, including the Delta variant, in accordance with the Department of Health COVID-19 Medicaid Guidance and Guidance issued by the Centers for Medicare and Medicaid Services, or irrespective of purely social distancing considerations, in the clinical judgment of the authorized provider, the potential risk of COVID-19 infection to an individual patient outweighs any real or perceived incremental benefit derived from an in-person versus remote or virtual appointment. The authorized provider shall indicate on their report that such assessment was done using telemedicine by use of modifier 95 and indicating a place of service as 11, or telephonically by indicating place of service as 02. The provider shall also confirm the employee's identity as well as provide basic information about the services the employee is receiving by telephone or telemedicine.

New subdivisions (c) and (d) of section 329-1.3 of Title 12 NYCRR is hereby added to read as follows:

- (c) When medically appropriate, authorized providers who utilize the Official New York State Workers' Compensation Fee Schedule may, when telemedicine is used in accordance with section 325-1.8 of this Title and any applicable Medical Treatment Guideline, bill using the applicable Evaluation and Management codes (99212-99214) using modifier 95 and indicating 11 as the place of service. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component.

(d) Providers with the following rating codes may bill the following psychotherapy codes in conjunction with Evaluation and Management codes:

(i) New patient Evaluation and Management: 99201-99204;

(ii) Psychotherapy combination codes and crisis codes: 90832-90834, 90836-90840, 90853;

A new subdivision (d) of section 329-4.2 of Title 12 NYCRR is hereby added to read as follows:

(d) When medically appropriate, authorized physical therapists and occupational therapists shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual

communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

New subdivisions (c) and (d) of section 333.2 of Title 12 NYCRR is hereby added to read as follows:

(c) When medically appropriate, authorized providers, including psychologists and licensed clinical social workers, shall use a Common Procedural Technology (CPT) therapy code (90832, 90834, or 90837) for services delivered by telemedicine in accordance with section 325-1.8 of this Title using modifier 95 and indicating 11 as the place of service for therapy by telemedicine using two-way audio and visual communication. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component. Group therapy: 90853. Group therapy is limited to a maximum of 20 participants and does not require that every participant in the group therapy session be a workers' compensation claimant.

A new subdivision (c) of section 348.2 of Title 12 NYCRR is hereby amended to read as follows:

(c) When medically appropriate, authorized chiropractors shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.