



14 NYCRR Parts 596
Express Terms

1. Part 596 of Title 14 NYCRR is amended to read as follows:

Part 596

[TELEPSYCHIATRY] TELEMENTAL HEALTH SERVICES

(Statutory Authority: Mental Hygiene Law §§7.09, 31.02, 31.04, Public Health Law §2999-dd)

Sec.

- 596.1 Background and intent
- 596.2 Legal base
- 596.3 Applicability
- 596.4 Definitions
- 596.5 Approval to Utilize [Telepsychiatry] Telemental Health Services
- 596.6 Requirements for [Telepsychiatry] Telemental Health Services
- 596.7 Reimbursement of [Telepsychiatry] Telemental Health Services
- 596.8 Contracts for the Provision of [Telepsychiatry] Telemental Health Services

§596.1 Background and intent.

(a) *[Telepsychiatry] Telemental health* is defined as the use of two-way real-time interactive audio and video equipment to provide and support mental health services at a distance. Such services do not include a telephone conversation, electronic mail message or facsimile transmission between a provider and a recipient, or a consultation between two professional or clinical staff.

(b) [Telepsychiatry] Telemental health services can be beneficial to a mental health care delivery system, particularly when on-site services are not available or would be delayed because of distance, location, time of day, or availability of resources. The benefits of [telepsychiatry] telemental health services can include improved access to care, provision of care locally in a more timely fashion, improved continuity of care, improved treatment compliance, and coordination of care.

(c) The Office of Mental Health supports the use of [telepsychiatry] telemental health services as an appropriate component of the mental health delivery system to the extent that it is in the best interests of the person served and is performed in compliance with applicable federal and state laws and regulations and the provisions of this Part in order to address legitimate concerns about privacy, security, patient safety, and interoperability.

§596.2 Legal base.

(a) Section 7.09 of the Mental Hygiene Law grants the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

(b) Sections 31.02 and 31.04 of the Mental Hygiene Law authorize the Commissioner of Mental Health to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for persons diagnosed with mental illness, pursuant to an operating certificate.

(c) Section 2999-dd of the Public Health Law provides that health care services delivered by means of telehealth are entitled to Medicaid reimbursement under Social Services Law Section 367-u.

§596.3 Applicability.

(a) The provisions of this Part shall apply to any provider licensed pursuant to Article 31 of the Mental Hygiene Law who has been authorized by the Office under this Part to include the use of telemental health services as a means of rendering licensed services, provided, however, that telepsychiatry [shall not] may be utilized in Personalized Recovery Oriented Services (PROS) programs subject to Part 512 of this Title or Assertive Community Treatment (ACT) programs approved pursuant to Part 551 of this Title if used only in accordance with this Part.

(b) The provisions of this Part shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law.

§ 596.4 Definitions.

For purposes of this Part:

(a) *Distant or "hub" site* means the distant location at which the telemental health practitioner rendering the [telepsychiatry] telemental health service is located.

(b) *Encounter* means a [telepsychiatry] telemental health event involving patient contact, whereby the care of the patient is the direct responsibility of both the originating [(spoke site) provider and the distant (hub site) provider] Article 31 licensed provider (spoke site) and the distant telemental health practitioner (hub site).

(c) *Encryption* means a system of encoding data on a Web page or email where the information can only be retrieved and decoded by the person or computer system authorized to access it.

(d) *Mental health counselor* means a person currently licensed as a mental health counselor by the New York State Education Department or who possesses a permit from the New York State Education Department.

(e) *Originating or "spoke" site* means the site where the patient is physically located at the time mental health services are delivered to her/him by means of [telepsychiatry] telemental health services, within the state of New York, or another temporary location within or outside the state of New York.

[(e)] (f) *Nurse practitioner in psychiatry* means a person currently certified as a nurse practitioner with an approved specialty area of psychiatry (NPP) by the New York State Education Department or who possesses a permit from the New York State Education Department.

[(f)] (g) *Physician* means a physician currently licensed to practice medicine in New York State [who (i) is a diplomat of the American Board of Psychiatry and Neurology or is eligible to be certified by that Board, or (ii) is certified by the American Osteopathic Board of Neurology and Psychiatry or is eligible to be certified by that Board] pursuant to the New York State Education Law.

[(g)] *Practitioner* means a physician, [or] nurse practitioner in psychiatry, who is providing telepsychiatry health services from a distant or hub site in accordance with the provisions of this Part.]

(h) *Provider of services* means a provider of mental health services licensed pursuant to Article 31 of the Mental Hygiene Law.

(i) *Psychologist* means an individual who is currently licensed as a psychologist by the New York State Education Department or possesses a permit from the New York State Education Department and who possesses a doctoral degree in psychology, or an individual who has obtained at least a master's degree in psychology who works in a federal, state, county or municipally operated clinic.

(j) *Qualified mental health professional* means [a practitioner] an individual possessing a license or a permit from the New York State Education Department who is qualified by credentials, training, and experience to provide direct services related to the treatment of mental illness and shall include physicians and nurse practitioner in psychiatry, as defined in subdivisions (e) and (f) of this Section, as well as the following:

(1) *Creative arts therapist*: A person currently licensed as a creative arts therapist by the New York State Education Department or who possesses a creative arts therapist permit from the New York State Education Department.

(2) *Licensed practical nurse*: A person currently licensed as a licensed practical nurse by the New York State Education Department or who possesses a licensed practical nurse permit from the New York State Education Department.

(3) *Licensed psychoanalyst*: A person currently licensed as a psychoanalyst by the New York State Education Department or who possesses a permit from the New York State Education Department.

(4) *Licensed psychologist*: A [person currently licensed as a psychologist by the New York State Education Department, or who possesses a permit from the New York State Education Department and who possesses a doctoral degree in psychology, or an individual who has obtained at least a master's degree in psychology who works in a federal, state, county or municipally operated clinic] a psychologist, as defined in subdivision (i) of this Section.

(5) *Marriage and family therapist*: A person currently licensed as a marriage and family therapist by the New York State Education Department or who possesses a permit from the New York State Education Department.

(6) *Mental health counselor*: A [person currently licensed as a mental health counselor by the New York State Education Department or who possesses a permit from the New York State Education Department] mental health counselor, as defined in subdivision (d) of this Section.

(7) *Nurse practitioner*: A nurse practitioner in psychiatry, as defined in subdivision (f) of this Section, or a person currently certified as a nurse practitioner by the New York State Education Department or who possesses a permit from the New York State Education Department.

(8) [*Physician*]Licensed psychiatrist: A person [currently licensed as a psychiatrist by the New York State Education Department or who possesses a permit from the New York State Education Department] who is currently licensed as a physician by the New York State Education Department and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology.

(9) *Physician assistant*: A person currently registered as a physician assistant by the New York State Education Department or who possesses a permit from the New York State Education Department.

(10) *Registered professional nurse*: A person currently licensed as a registered professional nurse by the New York State Education Department or who possesses a permit from the New York State Education Department.

(11) *Social worker*: A [person who is either currently licensed as a licensed master social worker or as a licensed clinical social worker (LCSW) by the New York State Education Department, or who possesses a permit from the New York State Education Department to practice and use the title of either licensed master social worker or licensed clinical social worker] social worker, as defined in subdivision (k) of this Section.

(k) Social worker means a person who is either currently licensed as a licensed master social worker or as a licensed clinical social worker (LCSW) by the New York State Education Department, or who possesses a permit from the New York State Education Department to practice and use the title of either licensed master social worker or licensed clinical social worker.

[(j)] (l) Telemental Health Technologies [Telecommunication system] means [an] interactive [telecommunication system] telemental health technology that is used to transmit data between the originating/spoke and distant/hub sites.

(m) Telemental Health Practitioner means a physician, nurse practitioner in psychiatry, psychologist, mental health counselor, or social worker, as each such term is defined in subdivision (d), (f), (g), (i), or (k) of this Section, who is providing telemental health services from a distant or hub site in accordance with the provisions of this Part.

[(k)] (n) [Telepsychiatry] Telemental Health Services means the use of two-way real-time interactive audio and video to provide and support clinical psychiatric care at a distance. Such services do not include a telephone conversation, electronic mail message, or facsimile transmission between a provider and a patient or a consultation between two physicians or nurse practitioners, or other staff, although these activities may support [telepsychiatry] telemental health services.

§ 596.5 Approval to Utilize [telepsychiatry] Telemental Health Services.

(a) [Telepsychiatry] Telemental health services may be authorized by the Office for assessment and treatment services provided by [physicians or nurse practitioners] telemental health practitioners, as defined in Section 596.4 of this Part, from a site distant from the location of a patient, where the patient is physically located at an originating/spoke site licensed by the Office, or the patient's place of residence or other temporary location within or outside the state of New York], and the telemental health practitioner physician or nurse practitioner is physically located at a distant/hub site that participates in the New York State Medicaid program].

(b) A provider of services must obtain prior written approval of the Office before utilizing [telepsychiatry] telemental health services.

(i) Once approved, such provider shall be accountable for ensuring compliance with all ethical and scope of practice requirements for the provision of such services by the telemental health practitioner.

(c) Approval shall be based on receipt by the Office of the following:

(1) Sufficient written demonstration that [telepsychiatry] telemental health services will be used for assessment and treatment services consistent with the provisions of this Part, and that the services are being requested not to fulfill regulatory staffing requirements but because they are necessary to improve the quality of care of individuals receiving services;

(2) Submission of a written plan to provide [telepsychiatry] telemental health services that satisfies the provisions of this Part and includes:

(i) confidentiality protections for persons who receive [telepsychiatry] telemental health services, including measures to ensure the security of the electronic transmission;

(ii) procedures for assessing patients to determine whether a patient may be properly treated via telemental health services;

(iii) informed consent of persons who receive [telepsychiatric] telemental health services;

[(iii)] (iv) procedures for handling emergencies with persons who receive [telepsychiatric] telemental health services; and

[(iv)] (v) contingency procedures to use when the delivery of telepsychiatric telemental health service is interrupted, or when the transmission of the two-way interactions is deemed inadequate for the purpose of service provision.

(3) Approval in Personalized Recovery Oriented Services (“PROS”) setting:

(i) Telemental health services may only be delivered in a PROS setting by psychiatrists and nurse practitioners in psychiatry as defined in this Part.

(ii) Telemental health services may only be used for purposes of delivering PROS clinical treatment services for a limited period of time, not to exceed one year.

(iii) Upon demonstration of a continued shortage, such time may be extended for a period not to exceed one additional year.

(iv) Originating/spoke site is limited to the physical location of the PROS program in which the patient is enrolled.

(4) Approval for use in Assertive Community Treatment (“ACT”) teams:

(i) Telemental health services may only be delivered within an ACT team by psychiatrists and nurse practitioners in psychiatry as defined in this Part, where there is a demonstrated shortage of psychiatrists and nurse practitioners in psychiatry.

(ii) When ACT visit is conducted in the community, ACT staff must be present during the delivery of telemental health services.

(ii) Telemental health services may only be delivered for a limited period of time, not to exceed one year.

(iii) Upon demonstration of a continued shortage, such time may be extended for a period not to exceed one additional year.

(d) Requests for approval to offer [telepsychiatry] telemental health services shall be submitted to the Field Office serving the area in which the originating/spoke site is located. The request for approval shall be submitted by the originating site. Such Field Office may make an on-site visit to either or both sites prior to issuing approval.

(e) The Office shall provide its approval to utilize [telepsychiatry] telemental health services in writing. The provider of services must retain a copy of the approval document and shall make it available for inspection upon request of the Office.

(f) Failure to adhere to the requirements set forth in this Part may be grounds for revocation of such approval. In the event that the Office determines that approval to utilize [telepsychiatry] telemental health services must be revoked, it will notify the provider of services of its decision in writing. The provider of services may request an informal administrative review of such decision. The Commissioner may direct the provider to immediately suspend the provision of telemental health services pending review of a decision to revoke if there is reason to believe the safety or privacy of any patient has been compromised as a result of telemental health service provision.

(1) The provider of services must request such review in writing within 15 days of the date it receives notice of revocation of approval to utilize [telepsychiatry] telemental health services to the Commissioner or designee. The request shall state specific reasons why such provider considers the revocation of approval incorrect and shall be accompanied by any supporting evidence or arguments.

(2) The Commissioner or designee shall notify the provider of services, in writing, of the results of the informal administrative review within 20 days of receipt of the request for review. Failure of the Commissioner or designee to respond within that time shall be considered confirmation of the revocation of deemed status.

(3) The Commissioner's determination after informal administrative review shall be final and not subject to further administrative review.

§596.6 Requirements for [telepsychiatry] Telemental Health Services.

(a) General requirements.

(1) The distant/ hub site telemental health practitioner must:

(i) possess a current, valid license to practice in New York State;

(ii) directly render the [telepsychiatry] telemental health service;

(iii) abide by the laws and regulations of the State of New York including the New York State Mental Hygiene Law and any other law, regulation, or policy that governs the assessment or treatment service being provided;

(iv) adhere to the same laws, rules, and regulations and exercise the same [standard] standards of care [as] and competencies required for in-house delivered services;

(v) utilize evidence-based telehealth or telemental health practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes; and

(vi) deliver services as follows:

- A. Psychiatrists and nurse practitioners in psychiatry may deliver services from a site located within the United States including from a space in a place of residence approved by the Office of Mental Health.
- B. Mental health practitioners may deliver services from a site located within the state of New York, including a space in a place of residence approved by the Office of Mental Health.

[deliver services from a site that is enrolled in the New York State Medicaid program.]

(2) The distant/hub provider and originating/spoke site provider of service must not be terminated, suspended, or barred from the Medicaid or Medicare program.

(3) If the originating/spoke site is a hospital, the telemental health practitioner at the distant/hub site must be credentialed and privileged by such hospital, as necessary and consistent with applicable accreditation standards.

(4) [Telepsychiatry] Telemental Health services must be rendered using telemental health technologies[an interactive telecommunication system]. A provider of services approved to offer telemental health services shall adopt and implement technology in a manner that supports the standard of care to deliver the services, the features of which include at least:

(i) The technology and equipment utilized in the provision of telemental health services must be of sufficient quality, size, resolution and clarity such that the provider of services can safely and effectively provide the telemental health services;

(ii) The technology and equipment utilized in the provision of telemental health services must be compliant with the Health Insurance Portability and Accountability Act.

(5) Telemental health practitioners must display their license and current registration at the distant or hub site so that it is clearly visible during a telemental health encounter and patients must have access to that information for their view. Telemental health practitioners must verify the identity of the patient before commencing each telemental health encounter.

(6) A notation must be made in the clinical record that indicates that the service was provided via [telepsychiatry] telemental health and which specifies the time the service was started and the time it ended.

[(6)] (7) [Telepsychiatry] Telemental health services provided to patients under age 18 may include staff that are qualified mental health professionals, as such term is defined in this Part, or other appropriate staff of the originating/spoke site in the room with the patient. Such determinations shall be clinically based, consistent with clinical guidelines issued by the Office.

[(7)] (8) For the purposes of this Part, [telepsychiatry] telemental health services shall be considered face-to-face contacts when the service is delivered in accordance with the provisions of the plan approved by the Office pursuant to Section 596.5 of this Part.

[(8)] (9) Culturally competent interpreter services shall be provided in the patient's preferred language when the patient and distant/hub telemental health practitioners do not speak the same language.

[(9)] (10) The telemental health practitioner providing [telepsychiatry] telemental health services at a distant/hub site shall be considered an active part of the patient's treatment team and shall be available for discussion of the case or for interviewing family members and others, as the case may require. Such telemental health practitioner shall prepare appropriate progress notes and securely forward them to the originating/spoke provider as a condition of reimbursement.

[(10)] (11) [Telepsychiatry] Telemental health services shall not be used:

(i) for purposes of ordering medication over objection; or

(ii) restraint or seclusion, as defined in section 526.4 of this Title. or

(ii) to satisfy any specific statutory examination, evaluation or assessment requirement necessary for the involuntary removal from the community, or involuntary retention in a hospital pursuant to any of the provisions of Article 9 of the Mental Hygiene Law. Physicians conducting such examinations, evaluations or assessments may only utilize telepsychiatry on a consultative basis.

(b) Protocols and Procedures. A provider of services approved to utilize [telepsychiatry] telemental health services must have written protocols and procedures that address the following:

(1) Initial assessment. Each patient for whom the provision of telemental health services may be offered must receive an initial assessment in person to determine whether the telepractice modality is appropriate, given the patient's treatment needs.

(2) Informed Consent: Protocols must [exist affording] afford persons receiving services the opportunity to provide informed consent to participate in any services utilizing [telepsychiatry] telemental health services, including the right to refuse these services and to be apprised of the alternatives to [telepsychiatry] telemental health services, including any delays in service, need to travel, or risks associated with not having the services provided by [telepsychiatry] telemental health, and risks associated with receiving telemental health services in a location outside of an Article 31 location. Such informed consent may be incorporated into the informed consent process for in-person care, or a separate informed consent process for [telepsychiatry] telemental health services may be developed and used.

(i) The patient must be provided with basic information about [telepsychiatry] telemental health services, including both benefits and risks, and shall provide his or her informed consent to participate in services utilizing this technology. For

patients under age 18, such information shall be shared with and informed consent obtained from the patient's parent or guardian.

(ii) [For patients under age 18, such information shall be shared with and informed consent obtained from the patient's parent or guardian] Patients, or a minor patient's parent or guardian, shall be informed how to verify a telemental health practitioner's professional license.

(iii) The patient has the right to refuse to participate in [telepsychiatry] telemental health services, in which case evaluations must be conducted in-person by appropriate clinicians.

(iv) [Telepsychiatry] Telemental health sessions shall not be recorded without the patient's consent.

[(2)] (3) Confidentiality: Protocols and procedures [should] must be maintained as required by Mental Hygiene Law Section 33.13 and the Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Parts 160 and 164 and shall apply to both the originating/spoke site and the distant/hub site. Such protocols shall ensure that all current confidentiality requirements and protections that apply to written clinical records shall apply to services delivered by telemental health technologies[telecommunications], including the actual transmission of the service, any recordings made during the time of transmission, and any other electronic records.

(i) All confidentiality requirements that apply to written medical records shall apply to services delivered by telemental health technologies[telecommunications], including the actual transmission of the service, any recordings made during the time of transmission, and any other electronic records.

(ii) The spaces occupied by the patient at the originating/spoke site and the practitioner at the distant/hub site must meet the minimum standards for privacy expected for patient-clinician interaction at a single Office of Mental Health licensed location.

[(3)] (4) Security of Electronic Transmission: All [telepsychiatry] telemental health services must be performed on dedicated secure transmission linkages that meet minimum federal and state requirements, including but not limited to 45 C.F.R. Parts 160 and 164 (HIPAA Security Rules), and which are consistent with guidelines of the Office. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.

[(4)] (5) Psychiatric emergencies: Protocols [should exist to] must address psychiatric emergencies, which may override the right to confidentiality to require the presence of others if, for instance, an individual receiving services is suicidal, homicidal, dissociated, or acutely psychotic during the evaluation or treatment service. In general this individual should not be managed via [telepsychiatry] telemental health without qualified mental health professionals present at the originating/spoke site, unless there are no adequate alternatives and immediate intervention is deemed essential for patient safety. All [telepsychiatry] telemental health service sites must have a written procedure detailing

the availability of in-person assessments by a physician or nurse practitioner in an emergency situation.

[(5)] (6) Prescribing medications via [telepsychiatry] telemental health: Procedures for prescribing medications through [telepsychiatry] telemental health must be identified and must be in accordance with applicable New York State and federal regulations, including but not limited to the federal Ryan Haight Act (21 U.S.C. Section 823 (f), New York State Education Law Sections 6902(3)(a)(ii), 7606, 7708, and 8407; and regulations of the New York State Department of Health at 10 NYCRR Part 80.

[(6)] (7) Procedures for first evaluations for involuntary commitments: Under New York State law, physicians must conduct first evaluations for involuntary commitments of individuals. If these evaluators want additional consultation before rendering their decision, they may obtain consultation from psychiatrists via [telepsychiatry] telemental health services. The responsibility for signing the commitment papers remains with the physician who actually conducted the evaluation of the individual at the facility, not the psychiatrist who provided the [telepsychiatric] telemental health consultation.

[(7)] (8) Patient rights: Patient rights policies must ensure that each individual receiving [telepsychiatry] telemental health services:

(i) is informed and made aware of the role and license information of the telemental health practitioner at the distant/hub site, as well as qualified mental health professional staff at the originating/spoke site who are going to be responsible for follow-up or on-going care;

(ii) is informed and made aware of the location of the distant/hub site and all questions regarding the equipment, the technology, etc., are addressed;

(iii) has the right to have appropriately trained staff immediately available to him/her while receiving the [telepsychiatry] telemental health service to attend to emergencies or other needs;

(iv) has the right to be informed of all parties who will be present at each end of the [telepsychiatry] telemental health transmission; and

(v) if the patient is a minor, the patient and his or her parent or guardian shall be given the opportunity to provide input regarding who will be in the room with the patient when [telepsychiatry] telemental health services are provided.

[(8)] (9) Quality of Care: All [telepsychiatry] telemental health service sites shall have established written quality of care protocols to ensure that the services meet the requirements of New York state and federal laws and established patient care standards. A review of [telepsychiatry] telemental health services shall be included in the provider's quality management process

[(9)] (10) Contingency Plan: All [telepsychiatry] telemental health service sites must have a written procedure detailing the contingency plan when there is a failure of the transmission or other technical difficulties that render the service undeliverable.

(11) Recordkeeping.

(i) The site at which the patient is registered shall be responsible for maintaining a complete clinical record as if the patient were seen face-to-face at such site, and for responding to any lawful release of information contained in the patients clinical record.

(ii) The distant/hub site shall maintain copies of all documentation completed by the distant/hub telemental health practitioner unless the telemental health practitioner enters the information directly into the originating/spoke site's electronic medical record system.

(c) Guidelines of the Office. The Office shall develop guidelines to assist providers in complying with the provisions of this Part and in achieving treatment goals through the use of [telepsychiatry] telemental health services. The Office shall post such guidelines on its public website.

§596.7 Reimbursement for [Telepsychiatry] Telemental Health Services.

(a) The originating/spoke site where the patient is admitted is authorized to bill Medicaid for [telepsychiatry] telemental health services.

(b) Under the Medicaid program, [telepsychiatry] telemental health services are covered when medically necessary and under the following circumstances:

(1) the person receiving services is located at the originating/spoke site and the telemental health practitioner is located at the distant/hub site;

(2) the originating/spoke site is the provider of services where the person receiving services is located;

(3) the distant/hub site is the site where the telemental health practitioner is located;

(4) the person receiving services is present during the [telepsychiatry] telemental health encounter or consultation;

(5) the [physician/nurse] telemental health practitioner is not conducting the [telepsychiatry] telemental health service encounter [consultation] at the originating/spoke site;

(6) the request for [telepsychiatry] telemental health services and the rationale for the request are documented in the individual's clinical record;

(7) the clinical record includes documentation that the [telepsychiatry] telemental health service encounter or consultation occurred and that the results and findings were communicated to the requesting provider of services;

(8) the telemental health practitioner at the distant/hub site is:

(i) licensed in New York State;

- (ii) practicing within his/her scope of specialty practice;
- [(iii) providing services from a site that participates in New York Medicaid;]
- (iii)[(iv)] affiliated with the originating/spoke site facility; and
- (iv)[(v)] if the originating/spoke site is a hospital, credentialed and privileged at the originating/spoke site facility.

(c) If the person receiving services is not present during the provision of the [telepsychiatry] telemental health service, the service is not eligible for Medicaid reimbursement and remains the responsibility of the originating/spoke facility.

(d) The following interactions do not constitute reimbursable [telepsychiatry] telemental health services;

- (1) telephone conversations;
- [(2) video cell phone interactions;]
- [(3)](2) e-mail messages; or
- (3) text messages.

(e) The originating/spoke site may bill for administrative expenses only when a [telepsychiatric] telemental health service connection is being provided and a [physician or nurse practitioner] qualified mental health professional is not present at the originating/spoke site with the patient at the time of the encounter.

(f) Reimbursement for services provided via [telepsychiatry] telemental health must be in accordance with the rates and fees established by the Office and approved by the Director of the Budget.

(g) If a [telepsychiatry] telemental health service is undeliverable due to a failure of transmission or other technical difficulty, reimbursement shall not be provided.

§ 596.8 Contracts for the Provision of [Telepsychiatry] Telemental Health Services.

(a) Nothing in this Part shall be deemed to prohibit a provider of services from providing assessment and treatment services, consistent with applicable regulations of the Office, as a distant/hub site via [telepsychiatry] telemental health pursuant to contract with an originating/spoke site provider that is not licensed or operated by the Office, but which is enrolled in the New York State Medicaid program.

(b) Although prior approval of the Office is not required before entering into such contracts, notice of such contracts or agreements shall be provided by the distant/hub provider of services within 30 days after execution of such contract to the Field Office serving the area where such provider of services is located.

(c) Reimbursement for [telepsychiatry service] services shall be pursuant to such contracts and are not separately billable by the distant/hub site.

(d) Providers of service shall not engage in distant/hub [telepsychiatric] telemental health services that violate the provisions of paragraph (10) of subdivision (a) of Section 596.6 of this Part.