Policy Title: Telehealth Expansion Benefit Enhancement			
Department Responsible: Compliance and Integrity	**Policy Number:** 1.90	**THN's Effective Date:** April 10, 2017	**Next Review/Revision Date:** April 2018
Title of Person Responsible: Compliance Officer	**THN Approval Council:** Compliance and Integrity Committee	**Date Approved**: April 10, 2017	**Revision/Approval Council:** N/A

PURPOSE:

The purpose of this policy to provide guidance on the Telehealth Wavier and to outline the requirements for THN, Next Generation Participants and Preferred Providers to follow in order to comply.

DEFINITIONS:

Term	Definition
Eligible Telehealth Provider	Next Generation Professional or Preferred Provider who is a physician or other practitioner listed at 42 C.F.R. § 410.78(b)(2) and meets the requirements under The Next Generation Participation Agreement.
Next Generation Participant	An individual or entity that: A. Is a Medicare-enrolled provider (as defined at 42 CFR § 400.202) or supplier (as defined at 42 CFR § 400.202); B. Is identified on the Participant List in accordance with Section IV; C. Bills for items and services it furnishes to Beneficiaries under a Medicare billing number assigned to a TIN in accordance with applicable Medicare regulations; D. Is not a Preferred Provider; E. Is not a Prohibited Participant; and F. Pursuant to a written agreement with the ACO, has agreed to participate in the Model, to report quality data through the ACO, and to comply with care improvement objectives and Model quality performance standards.
Preferred Provider	**A**n individual or entity that: A. Is a Medicare-enrolled provider (as defined at 42 CFR § 400.202) or supplier (as defined at 42 CFR § 400.202); B. Is identified on the Preferred Provider List in accordance with Section IV; C. Bills for items and services it furnishes to Beneficiaries under a Medicare billing number assigned to a TIN in accordance with applicable Medicare regulations; D. Is not a Next Generation Participant; E. Is not a Prohibited Participant; and

	F. Has agreed to participate in the Model pursuant to a written agreement with the ACO.

POLICY:
CMS waives the following provisions with respect to otherwise covered telehealth services furnished to a Next Generation Beneficiary by an Eligible Telehealth Provider and in such other circumstances that complies with the terms and conditions set forth in this policy.

a. Waiver of Originating Site Requirements: CMS waives the requirements in section 1834(m)(4)(C) of the Social Security Act and 42 C.F.R. § 410.78(b)(3)–(4) with respect to telehealth services furnished in accordance with this Appendix.
b. Waiver of Originating Site Requirement in the Eligible Telehealth Individual Provision: CMS waives the requirement that telehealth services be "furnished at an originating site" from section 1834(m)(4)(B) of the Social Security Act when furnished in accordance with this Appendix.
c. Waiver of Originating Site Facility Fee provision: CMS waives section 1834(m)(2)(B) and 42 C.F.R. § 414.65(b) with respect to telehealth services furnished to a beneficiary at his/her home or place of residence when furnished in accordance with this Appendix.

PROCEDURES:

I. Waived Provisions:

A. Waiver of Originating Site Requirements: CMS waives the requirements in section 1834(m)(4)(C) of the Social Security Act and 42 C.F.R. § 410.78(b)(3)–(4) with respect to telehealth services furnished in accordance with this Appendix.
B. Waiver of Originating Site Requirement in the Eligible Telehealth Individual Provision: CMS waives the requirement that telehealth services be "furnished at an originating site" from section 1834(m)(4)(B) of the Social Security Act when furnished in accordance with this Appendix.
C. Waiver of Originating Site Facility Fee provision: CMS waives section 1834(m)(2)(B) and 42 C.F.R. § 414.65(b) with respect to telehealth services furnished to a beneficiary at his/her home or place of residence when furnished in accordance with this Appendix.

II. Eligible Telehealth Providers:

A. In order to participate in the Telehealth Waiver, a provider must be an "**Eligible Telehealth Provider**", which is:
    1. A Next Generation Professional who is a Participant or Preferred Provider; and
    2. Authorized under relevant Medicare rules and state law to bill for telehealth services; and
    3. Designated on the Participant List or Preferred Provider List as participating in the Telehealth Expansion Benefit Enhancement; and
    4. Approved by CMS according to the criteria described in the Next Generation Agreement, Appendix J.

III. Eligibility Requirements:

A. In order for telehealth services to be eligible for reimbursement under the terms of the waiver the Beneficiary must be located at an originating site that is either:
    1. One of the sites listed in section 1834(m)(4)(C)(ii) of the Social Security Act; or The Beneficiary's home or place of residence.

2. Claims will be denied for the following telehealth services furnished to a Beneficiary located at his/her home or place residence:
    i. Follow-up inpatient telehealth consultations furnished to beneficiaries in hospitals or SNFs. HCPCS codes G0406 - G0408;
    ii. Subsequent hospital care services, with the limitation of one telehealth visits every three days. CPT codes 99231 – 99233; and
    iii. Subsequent nursing facility care services, with the limitation of one telehealth visit every 30 days. CPT codes 99307 - 99310.

B. In the event that technical issues with telecommunications equipment required for telehealth services cause an inability to appropriately furnish such telehealth services, the Eligible Telehealth Provider shall not submit a claim for such telehealth services.

C. All telehealth services must be furnished in accordance with all other applicable state and Federal laws and all other Medicare coverage and payment criteria, including the remaining portions of section 1834(m) of the Social Security Act and 42 C.F.R. §§ 410.78 and 414.65.

D. An Eligible Telehealth Provider shall not furnish telehealth services in lieu of in person services or encourage, coerce, or otherwise influence a Next Generation Beneficiary to seek or receive telehealth services in lieu of in person services when the Eligible Telehealth Provider knows or should know in person services are medically necessary.

IV. Grace Period for Excluded Beneficiaries:

A. In the case a Next Generation Beneficiary previously aligned to the ACO at the start of the Performance Year and is later excluded from alignment to the ACO, CMS shall make payment for telehealth services furnished to the Beneficiary that occur within 90 days following the date of the exclusion from alignment.

V. Responsibility for Denied Claims:

A. If a claim for any telehealth services furnished to a Next Generation Beneficiary by an Eligible Telehealth Provider is denied as a result of a CMS error and the Eligible Telehealth Provider did not know, and could not reasonably have been expected to know, as determined by CMS, that the claim would be denied, payment shall, notwithstanding such denial, be made by CMS for such telehealth services under the terms of the waiver in Section II of this Appendix as though the coverage denial had not occurred.

B. If a claim for any telehealth services furnished to a Beneficiary by an Eligible Telehealth Provider is denied for any reason other than a CMS error and CMS determines that the Eligible Telehealth Provider did not know, and could not reasonably have been expected to know, as determined by CMS, that payment would not be made for such items or services under Part A or Part B of Title XVIII:
    1. CMS shall, notwithstanding such denial, pay for such telehealth services under the terms of the waiver in Section II of this Appendix as though the coverage denial had not occurred, but CMS will recoup these payments from the ACO. The ACO shall owe CMS the amount of any such payments, payable as Other Monies Owed for that Performance Year;
    2. The ACO shall ensure that the Eligible Telehealth Provider that provided the telehealth services does not charge the Beneficiary for the expenses incurred by such services; and
    3. The ACO shall ensure that the Eligible Telehealth Provider that provided the telehealth services returns to the Beneficiary any monies collected from the Beneficiary.

C. If a claim for any telehealth services furnished to a Beneficiary by an Eligible Telehealth Provider that has been identified as a provider participating in this Benefit Enhancement pursuant to Section

IV of the Agreement is denied and the Eligible Telehealth Provider knew, or reasonably could be expected to have known, as determined by CMS, that payment would not be made for such items or services under Part A or Part B of Title XVIII:

1. CMS shall not make payment to the Eligible Telehealth Provider for such services;
2. The ACO shall ensure that the Eligible Telehealth Provider that provided the telehealth services does not charge the Beneficiary for the expenses incurred by such services; and
3. The ACO shall ensure that the Eligible Telehealth Provider that provided the telehealth services returns to the Beneficiary any monies collected from the Beneficiary.

D. If a Next Generation Participant or Preferred Provider that is not an Eligible Telehealth Provider submits claims for telehealth services under this Telehealth Expansion Benefit Enhancement for which CMS only would have made payment if the Next Generation Participant or Preferred Provider was an Eligible Telehealth Provider participating in the this Telehealth Expansion Benefit Enhancement at the time of service:

1. CMS shall not make payment to the Next Generation Participant or Preferred Provider for such services;
2. The ACO shall ensure that the Next Generation Participant or Preferred Provider that provided the telehealth services does not charge the Beneficiary for the expenses incurred by such services; and
3. The ACO shall ensure that the Next Generation Participant or Preferred Provider that provided the telehealth returns to the Beneficiary any monies collected from the Beneficiary.

VI. Compliance and Enforcement

A. CMS may reject the ACO's designation of a Next Generation Participant or Preferred Provider as an Eligible Telehealth Provider at any time if the Next Generation Participant or Preferred participate in this Telehealth Expansion Benefit Enhancement at any time if the Next Generation Participant or Preferred Provider's participation in this Telehealth Expansion Benefit Enhancement might compromise the integrity of the Model.

B. The ACO must have appropriate procedures in place to ensure that Next Generation Participants and Preferred Providers have access to the most up-to-date information regarding Next Generation Beneficiary alignment to the ACO.

C. As a condition of this waiver, the ACO is required to submit quarterly reports to CMS, in a manner to be determined by CMS, regarding its use of this waiver and to provide CMS with supplemental information upon request regarding its use of the waiver.

D. CMS will monitor the ACO's use of the waiver under Section II of this Appendix to ensure that services furnished under the waiver are medically appropriate and consistent with the terms of the waiver.

E. In accordance with Section XIX of this Agreement, CMS may terminate or suspend this waiver or take other remedial action if the ACO or any of its Next Generation Participants or Preferred Providers fails to comply with the terms and conditions of the waiver under Section II of this Appendix.

F. Notwithstanding Section XXI.D of the Agreement, CMS may amend this Appendix J without the ACO's consent. To the extent practicable, CMS shall provide the ACO with 30 calendar days advance written notice of any such unilateral amendment, which notice shall specify the amendment's effective date.

REFERENCE DOCUMENTS/LINKS:

- Next Generation ACO Model Participation Agreement 2017 (First Amended and Restated Participation Agreement for 2016 Starters), Section XI Benefits Enhancements, subsection C1-4, page 38. **Appendix J**.
- 42 C.F.R. § 414.65(b)
- 42 C.F.R. §§ 410.78 and 414.65.
- SEC. 1834. **[**42 U.S.C. 1395m**]** (m) Payment for Telehealth Services

PREVIOUS REVISION/REVIEW DATES:

Date	Reviewed	Revised	Notes
May 23, 2017	N/A	N/A	New Policy