



OFFICE OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES BULLETIN

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September 30, 2021

NUMBER:

OMHSAS-21-09

SUBJECT:

**Guidelines for the Delivery of
Behavioral Health Services Through
Telehealth**

BY:

A handwritten signature in black ink that reads "Kristen Houser".

Kristen Houser, Deputy Secretary
Office of Mental Health and Substance Abuse Services

SCOPE:

The bulletin applies to: (1) providers enrolled in the Medical Assistance (MA) Program who render behavioral health services in the fee-for-service (FFS) or managed care delivery system and (2) Primary Contractors and Behavioral Health Managed Care Organizations (BH-MCOs) in the HealthChoices (HC) Program.

PURPOSE:

The purpose of this bulletin is to update the guidelines for payment of behavioral health services delivered using telehealth technology previously issued in *OMHSAS-20-02 Guidelines for the Use of Telehealth Technology in the Delivery of Behavioral Health Services*. Telehealth generally refers to the delivery of compensable behavioral health services using real-time, two-way interactive audio-video transmission. Telehealth does not include text messaging, electronic mail messaging or facsimile (fax) transmissions. These updated guidelines include the following key changes from OMHSAS-20-02:

- 1) Permits the delivery of services through audio-only without video, in limited circumstances, if consistent with Pennsylvania regulations and federal requirements, including guidance by the Centers for Medicare & Medicaid Services with respect to Medicaid payment and the US Department of Health and Human Services Office of Civil Rights with respect to the Health Insurance Portability and Accountability Act (HIPAA) compliance.
- 2) Expands the use of telehealth service delivery to include drug and alcohol providers licensed by the Pennsylvania Department of Drug and Alcohol Programs for services paid for by the MA program.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning & Program Development, P.O. Box 2675, Harrisburg, PA 17105. E-mail: RA-PWTBHS@pa.gov

- 3) Expands the use of telehealth to include services provided by unlicensed mental health staff working through a licensed provider agency including unlicensed master's level therapists, mental health targeted case managers, mental health certified peer support specialists, certified recovery specialists, and drug and alcohol counselors (as defined in 28 Pa. Code §704.7(b)) as allowable for in-person services delivery in the MA Program.
- 4) Permits the delivery of services through telehealth in community settings

BACKGROUND:

The Office of Mental Health and Substance Abuse Services (OMHSAS) first issued guidance on the use of telehealth through *OMHSAS-11-09 OMHSAS Guidelines for the Approval of Telepsychiatry*. OMHSAS issued updated guidance in *OMHSAS-14-01 OMHSAS Guidelines for the Approval of Telepsych Services in HealthChoices*, which clarified the availability of telehealth to deliver psychiatric and psychological services by MA enrolled psychiatrists and licensed psychologists in the Behavioral Health HC Program. Both bulletins were applicable only to MA enrolled psychiatrists and licensed psychologists when providing services in the HC Program. On February 20, 2020 OMHSAS issued *OMHSAS-20-02 Guidelines for the Use of Telehealth Technology in the Delivery of Behavioral Health Services* expanding the use of telehealth to the Fee-for-Service delivery system and the practitioner types that may provide services through telehealth technology.

On March 15, 2020 OMHSAS issued Memorandum *Telehealth Guidelines Related to COVID-19* which added temporary flexibilities for telehealth service delivery in response to the Governor's [Proclamation of Disaster Emergency](#) due to the novel coronavirus COVID-19, in order to ensure ongoing access to behavioral health services under social distancing guidelines, quarantines, and stay-at-home orders. This Memorandum was revised and re-issued as [Telehealth Guidelines Related to COVID-19 \(Updated\)](#) on May 5, 2020. These flexibilities were critical in retaining individuals in treatment, increasing access to services, and expanding individual choice in the delivery of services. Based on stakeholder feedback and to allow for continued access to behavioral health services using telehealth, this bulletin provides for the continuation of certain telehealth flexibilities following the end of the state emergency disaster declaration.

PROCEDURE

The following procedures apply to providers seeking to utilize telehealth for delivering behavioral health services:

Licensed Practitioners

Licensed practitioners may provide behavioral health services through telehealth that are within their scope of practice. Practitioners should exercise sound clinical judgement and

should not provide services through telehealth when it is clinically not appropriate to do so. Services delivered using telehealth must comply with all service specific and payment requirements for the service.

Provider Agencies

Provider agencies using behavioral health staff who are unlicensed, including unlicensed master's level therapists, mental health targeted case managers, mental health certified peer support specialists, certified recovery specialists, and drug and alcohol counselors (as defined in 28 Pa. Code §704.7(b)), and licensed practitioners may provide services using telehealth. Provider agencies should establish and enforce policies for assessing when it is clinically appropriate to deliver services through telehealth. Services delivered using telehealth must comply with all service specific and payment requirements for the service.

Out-of-State Practitioners Providing Services to Individuals in Pennsylvania

Out-of-state licensed practitioners who provide treatment through telehealth to individuals in Pennsylvania through the MA program must meet the licensing requirements established by the Pennsylvania Department of State. In order to receive payment for services to beneficiaries in the FFS delivery system, practitioners must be enrolled in the MA Program. Practitioners seeking to provide services to beneficiaries in the managed care delivery system should contact the appropriate Managed Care Organization for its enrollment processes. Practitioners are also advised to consult with their professional liability insurances regarding provision of services in other jurisdictions.

Pennsylvania Residents Temporarily Out-of-State

Behavioral Health Services may be provided using telehealth to meet the behavioral healthcare needs of Pennsylvania residents who are temporarily out of the state as long as the delivery of services out-of-state is consistent with the authorization for services and treatment plan, the individual continues to meet eligibility for the Pennsylvania MA Program, and the Pennsylvania provider agency or licensed practitioner has received authorization to practice in the state or territory where the individual will be temporarily located.

Access to Services Delivered In-Person

In the managed care delivery system, the HealthChoices Primary Contractor must ensure that provider agencies and licensed practitioners who deliver services through telehealth within their service area can arrange for services to be delivered in-person as clinically appropriate or requested by the individual served. HealthChoices Primary Contractors must ensure that each contracted provider agency and licensed practitioner meets one of the two following criteria:

1. The provider agency or licensed practitioner maintains a physical location in Pennsylvania within 60 minutes or 45 miles (whichever is greater) of the area served with appropriate licensure for all services provided through telehealth; **or**
2. The provider agency or licensed practitioner maintains a physical location in a state bordering Pennsylvania, located within 60 minutes or 45 miles (whichever is greater) of the area served in Pennsylvania, maintains licensure in the state where they are physically located for all services provided through telehealth and is enrolled with the Pennsylvania MA program.

The HealthChoices Primary Contractor may apply for an exception to allow licensed practitioners and/or provider agencies beyond the 60 minute/45 mile restriction to deliver services through telehealth in their service area when supporting additional access to services or in circumstances when the licensed practitioner and/or provider agency is needed to meet the cultural, racial/ethnic, sexual/affectional or linguistic needs of individual(s) served. Exception requests forms, included in Attachment B, can be submitted to the OMHSAS Telehealth Resource Account.

Originating Sites

The originating site is the setting at which an individual receives behavioral health services using telehealth delivery. When telehealth is being used to deliver services to an individual who is at a clinic, residential treatment setting, or facility setting, the originating site must have staff trained in telehealth equipment and protocols to provide operating support. In addition, the clinic or facility must have staff trained and available to provide clinical intervention in-person, if a need arises.

Services delivered through telehealth may also be provided outside of a clinic, residential treatment setting or facility setting. With the consent of the individual served and when clinically appropriate, licensed practitioners and provider agencies may deliver services through telehealth to individuals in community settings, such as to an individual located in their home. The licensed practitioner or provider agency must have policies in place to address emergency situations, such as a risk of harm to self or others.

Determining Appropriateness for Telehealth Delivery of Services

Licensed practitioners and provider agencies delivering services through telehealth must have policies that ensure that services are delivered using telehealth only when it is clinically appropriate to do so and that licensed practitioners are complying with standards of practice set by their licensing board for telehealth where applicable.

Factors to consider include, but are not limited to:

- The preference of the individual served and/or the preference of parents/guardians
- Whether there is an established relationship with the service provider and the length of time the individual has been in treatment
- Level of acuity needed for care
- Risk of harm to self or others
- Age of a minor child
- Ability of the individual served to communicate, either independently or with accommodation such as an interpreter or electronic communication device
- Any barriers to in-person service delivery for the individual
- Access to technology of the individual served
- Whether privacy for the individual served could be maintained if services are delivered using telehealth
- Whether the service relies on social cueing and fluency

The preference of the individual served and their legal guardian(s), as applicable, should be given high priority when making determinations of the appropriateness of the telehealth delivery. However, no service should be provided through telehealth when, in the best clinical judgement of the licensed practitioner, it is not clinically appropriate. When the use of telehealth is not clinically appropriate, the licensed practitioner or provider agency must offer the services in-person. If the individual disagrees with the clinical determination, the licensed practitioner or provider agency may refer the individual to other in-network providers or the managed care organization.

Guidance specific to delivering children's services through telehealth is included in Attachment A.

High Intensity Services

Some behavioral health services may be appropriate to be provided primarily through telehealth, while other services will require ongoing in-person delivery for a significant portion of or all of the services. Providers and practitioners should carefully consider the clinical appropriateness of telehealth delivery for such services, including, but not limited to: Partial Hospitalization, Intensive Behavioral Health Services (IBHS), Family Based Mental Health, Assertive Community Treatment (ACT), or if the beneficiary is in a residential facility or inpatient setting

Title VI and Limited English Proficiency

All recipients of federal funding, including MA and federal grant funds, are subject to Title VI of the Civil Rights Act of 1964 and may not discriminate on the basis of race, color, or national

origin and must offer language services to individuals with limited English proficiency. Providers who elect to deliver services through telehealth must have a policy that makes available interpretation services, including sign language interpretation, for individuals being served through telehealth.

Consent

Licensed practitioners and provider agencies must obtain consent from the individual receiving services or their legal guardian, as applicable, prior to rendering a service via telehealth. Licensed practitioners and provider agencies must also allow individuals to elect to return to in-person service delivery at any time. Individuals may refuse to receive services through telehealth.

As with services delivered in-person, licensed practitioners and provider agencies must obtain consent from the individual served or their legal guardian, as applicable, to make any recordings of the individual during the provision of services through telehealth appointments. Licensed practitioners and provider agencies are not permitted to mandate the use of recording for telehealth service delivery and must still provide the service if an individual or legal guardian, as applicable, does not consent to a recording.

Documentation

The medical record for the individual served must indicate each time a service is provided using telehealth including the receipt of informed consent prior to the start of the session, start time of service and end time of service. Additionally, if the individual served or their legal guardian, as applicable, consents to the recording of a telehealth service, documentation of consent must be included in the medical record.

Signatures for consent to treatment, service verification, and acknowledgement of receipt of treatment or service plan(s) may include hand-written or electronic signatures. Consistent with [Act 69 of 1999 Electronic Transactions Act](#), an electronic signature is an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

In situations where signatures cannot be obtained from the individual served or their legal guardian, as applicable, documentation of verbal consent in the medical record meets the requirement for a signature except where inconsistent with Pennsylvania regulations. Verbal consent/verification is not allowable for Mental Health Intensive Case Management services. See 55 Pa. Code § 5221.33. Providers may consider submitting a request for waiver of this regulatory standard.

Technology

Technology used for telehealth, whether fixed or mobile, should be capable of presenting sound and image in real-time and without delay. Telehealth equipment should clearly display the practitioners' and participants' faces to facilitate clinical interactions. The telehealth equipment must meet all state and federal requirements for the transmission or security of health information and comply with the Health Insurance Portability and Accountability Act (HIPAA).

Audio-only refers to the delivery of behavioral health services at a distance using real-time, two-way interactive audio only transmission. Audio-only does not include text messaging, electronic mail messaging or facsimile (fax) transmissions. Providers may utilize audio-only when the individual served does not have access to video capability or for an urgent medical situation, provided that the use of audio-only is consistent with Pennsylvania regulations and federal requirements, including guidance by the Centers for Medicare & Medicaid Services with respect to Medicaid payment and the US Department of Health and Human Services Office of Civil Rights enforcement of HIPAA compliance. Audio-only service delivery is not allowed for Outpatient Psychiatric Services (55 Pa. Code § 1153.14) or Outpatient Drug and Alcohol Clinic Services (55 Pa. Code § 1223.14). OMHSAS intends to revise these regulations to allow audio-only delivery of services. Providers may consider submitting a request for waiver of these regulatory standards.

Audio-only and text messages may also continue to be utilized for non-service activities, such as scheduling appointments.

Provider Policies

1. Providers using telehealth must maintain written policies for the operation and use of telehealth equipment. Policies must include the provision of periodic staff training to ensure telehealth is provided in accordance with the guidance in this bulletin as well as the provider's established patient care standards.
2. Providers must maintain a written policy detailing a contingency plan for transmission failure or other technical difficulties that render the behavioral health service undeliverable. Contingency plans should describe how the plan will be communicated to individuals receiving services.
3. Prior to delivering services through telehealth, providers or practitioners should provide information to the individual receiving services that supports the delivery of quality services. At a minimum, information should address the importance of the individual being in a private location, preventing interruptions and distractions such as from children or other family members, visitors in the household and from other communication or bandwidth reducing devices. When services are being provided to a child, youth or young

adult consideration should also be given to how much caregiver involvement will be needed during the appointment.

Billing

Services delivered in the MA FFS delivery system through telehealth will be paid the same rate as if the services were delivered in-person.

MA providers in the MA FFS delivery system that provide services via telehealth should bill for services with a Place of Service (POS) 02 unless instructed otherwise for specific services. Please consult the MA Fee Schedule for procedure codes that now have the POS 02. For services delivered through audio-only, informational modifier code 95 should be used.

Providers in the MA HC program must follow the billing instructions of the BH-MCO.

Obsolete Bulletin

The issuance of this bulletin renders the OMHSAS-20-02, *OMHSAS Memorandum Telehealth Guidelines Related to COVID-19*, and *OMHSAS Memorandum Telehealth Guidelines Related to COVID-19 (Updated)* obsolete. The issuance of this bulletin supersedes OMHSAS-20-03.

ATTACHMENT A

Guidelines for Telehealth Service Delivery for Children and Youth

The following guidelines are recommended best practices. When delivering services through telehealth, licensed practitioners and provider agencies should ensure that, regardless of age, each child or youth has sufficient caregiver support to engage effectively in services.

- When services are being delivered through telehealth to children 3 to 5 years old, each child should have a caregiver participate during the provision of services.
- When services are being delivered through telehealth to children 6 to 9 years old, a caregiver should observe each child during provision of services.
- When services are being delivered through telehealth to children ages 10 to 13 years old, any child that may need a caregiver during the provision of services should have a caregiver available.
- When services are being delivered through telehealth to youth 14 years old to 18 years old, any youth that may need a caregiver during the provision of services should have a caregiver available.
- All children or youth that participate in services through telehealth delivery should have the ability to communicate, either independently or with accommodation such as an interpreter or electronic communication device.

ATTACHMENT B

Pennsylvania Behavioral Health Medical Assistance Providers

Exception Request for Telehealth

The Office of Mental Health and Substance Abuse Services (OMHSAS) Telehealth Bulletin OMHSAS-21-09 requires that the HealthChoices Primary Contractors ensure that behavioral health providers who deliver services through telehealth within their service area can also arrange for services to be delivered in-person by maintaining a physical location for the delivery of services in-person within 60 minutes or 45 miles (whichever is greater) from the area served, with appropriate licensure for the services provided through telehealth.

The HealthChoices Primary Contractor may apply for an exception to allow licensed practitioners and/or provider agencies beyond the 60 minute/45 mile restriction to deliver services through telehealth in their service area when supporting additional access to services or in circumstances when the licensed practitioner and/or provider agency is needed to meet the cultural, racial/ethnic, sexual/affectional or linguistic needs of individual(s) served.

Instructions

- Each item must be responded to completely.
- When exception requests are for a provider agency, one exception request can be submitted for the provider agency that will cover all the licensed practitioners and unlicensed behavioral health staff working through that provider agency.
- Exception requests will be authorized for a maximum of 1 year. Renewals should be requested at minimum 60 days prior to the expiration date of the approved exception request.
- HealthChoices Primary Contractors must submit their completed form to the OMHSAS electronic resource account RA-PWTBHS@pa.gov at least 60 days prior to the anticipated start date of telehealth service delivery under the exception.

I. Exception Request:

(Completed by the HealthChoices Primary Contractor)

a. HealthChoices Primary Contractor

HealthChoices Primary Contractor	
Contact Person:	
Phone Number:	
Email:	

- New Exception Request
 Renewal Exception Request
 Current Exception Request Expiration Date

b. Provider Information

Provider Name:	
Contact Person:	
Phone Number:	
Email:	
License Number(s):	
Issuing State:	
Services Provided: <i>list all services the provider will offer through telehealth under this exception request. Do not include services the provider offers in-person only.</i>	

c. Provider and Service Locations: Please list the physical address of the licensed practitioner or licensed provider agencies that will provide telehealth delivered services.

#	Provider Site Address	13-digit Provider PROMISe ID
1		
2		
3		
4		
5		

****Note**** - *If you have more than five Provider & Service Locations, you can submit their addresses and 13-digit Provider PROMISe ID numbers on a separate page.*

d. Exception Request: Please indicate the exception category request

- Supporting additional access to services (specify below)
- Licensed practitioner and/or provider agency is needed to meet the cultural, racial/ethnic, sexual/affectional or linguistic needs of individual(s) served. (specify the specific needs below)

Rationale: Briefly describe the specific circumstances for which this exception is requested, including how the need for this exception was identified. (1 page maximum)

In-person Service Delivery and Crisis Plan: Briefly describe how the needs of individuals that require or request services to be delivered in-person will be met, including crisis services. (1 page maximum)

HealthChoices Primary Contractor Agreement:

(To be signed by the HealthChoices Primary Contractor)

I understand the HealthChoices Primary Contractor cannot offer services through telehealth under the exception allowance until approval is received from OMHSAS. The HealthChoices Primary Contractor is responsible for ensuring all providers under the exception are monitored for compliance with OMHSAS-21-09. OMHSAS reserves the right to revoke telehealth exception approval prior to the date of expiration if the provider delivers services that are not consistent with OMHSAS-21-09.

HealthChoices Primary Contractor Representative Name:

HealthChoices Primary Contractor Representative Signature:

Date:

II. OMHSAS Approval

(To be completed by OMHSAS)

The exception request is approved. This authorization expires on

The exception request is not approved.

OMHSAS Representative Name:

OMHSAS Representative Signature:

Date: