

# MMHPI COVID-19 Regulations & Reimbursement Newsletter

## *Letter to Providers #1: Telehealth and Telephonic Care – March 26, 2020*

With federal and state health care policies changing rapidly in response to COVID-19, the Meadows Mental Health Policy Institute (MMHPI) will be issuing *Regulation & Reimbursement Newsletters* to support providers we have connections with as they navigate this new terrain. In this newsletter – our first one to providers – we highlight several recent changes to regulatory and reimbursement rules, particularly regarding telehealth and telephonic services. We will be distributing these newsletters on a regular basis during the pandemic to provide information on federal, state, and local regulatory and reimbursement changes. If you would like to have additional organizations added to our distribution list or have follow up questions on the content, please email Catie Hilbelink at [chilbelink@texasstateofmind.org](mailto:chilbelink@texasstateofmind.org).

### Claims for Telephone Services

#### Behavioral Health Services

<b>Date</b>	March 20, 2020	
<b>Summary</b>	HHSC is authorizing providers to submit claims for dates of service March 20, 2020, through April 30, 2020, for reimbursement of the following behavioral health services delivered by telephone (audio only). To indicate the occurrence of remote delivery, providers should continue to use the 95 modifier.	
	<b>Description of Services</b>	<b>Procedure Codes</b>
	Psychiatric Diagnostic Evaluation	90791, 90792
	Psychotherapy	90832, 90834, 90837, 90846, 90847, 90853
	Peer Specialist Services	H0038
	Screening, Brief Intervention, and Referral to Treatment (SBIRT)	99408, G2011, H0049
	Substance Use Disorder Services	H0001, H0004, H0005
	Mental Health Rehabilitation	H0034, H2011, H2012, H2014, H2017
<b>Link</b>	<a href="http://www.tmhp.com/News_Items/2020/03-March/03-20-20%20Claims%20for%20Telephone%20Audio%20Only%20Behavioral%20Health%20Services.pdf">http://www.tmhp.com/News_Items/2020/03-March/03-20-20%20Claims%20for%20Telephone%20Audio%20Only%20Behavioral%20Health%20Services.pdf</a>	
<b>Note</b>	<i>HHSC unofficial guidance provides that this change also authorizes these behavioral health services to be delivered by telehealth using the same modifier.</i>	

**Medical Services**

<b>Date</b>	March 20, 2020	
<b>Summary</b>	HHSC is authorizing providers to bill the following procedure codes for telephone (audio only) medical (physician delivered) evaluation and management services delivered on March 20, 2020 through April 30, 2020. Providers should continue to use the 95 modifier to indicate the occurrence of remote delivery.	
	<b>Description of Services</b>	<b>Procedure Codes</b>
	Evaluation and Management (E/M)	99201, 99202, 99203, 99204, 99205, 99211, 99212, 99213, 99214, 99215
	Telephonic evaluation and management services must not be billed if it is determined that an in-person or telemedicine (video) office visit is needed within 24 hours or at the next available appointment. In those cases, the telephone service will be considered a part of the subsequent office visit. If the telephone call follows an office visit performed and reported within the past seven calendar days for the same diagnosis, then the telephone services are considered part of the previous office visit and are not billed separately.	
<b>Link</b>	<a href="http://www.tmhp.com/News_Items/2020/03-March/03-20-20%20Claims%20for%20Telephone%20Audio%20Only%20Medical%20Services.pdf">http://www.tmhp.com/News_Items/2020/03-March/03-20-20%20Claims%20for%20Telephone%20Audio%20Only%20Medical%20Services.pdf</a>	
<b>Note</b>	<i>HHSC unofficial guidance provides that this change also authorizes these medical services to be delivered by telehealth using the same modifier.</i>	

**Telemedicine Payments for State-regulated Insurance Plans**

<b>Date</b>	March 17, 2020
<b>Summary</b>	Governor Abbott waived certain regulations and directed that the Texas Department of Insurance (TDI) issue an emergency rule relating to telemedicine care for patients with state-regulated insurance plans. The suspensions and emergency rule will work together to allow telemedicine visits for patients with state-regulated plans to be paid the same as in-office visits for insurance purposes. Doctors will be eligible for payment from insurance plans regulated by TDI for medical visits they conduct over the phone instead of in-person at the same rate they would receive for in-person visits.
<b>Link</b>	<a href="https://gov.texas.gov/news/post/governor-abbott-waives-certain-regulations-for-telemedicine-care-in-texas">https://gov.texas.gov/news/post/governor-abbott-waives-certain-regulations-for-telemedicine-care-in-texas</a>

## Telehealth Security Protocols

<b>Date</b>	March 19, 2020
<b>Summary</b>	The Office for Civil Rights (OCR) is exercising its enforcement discretion to not impose penalties for noncompliance with the HIPAA Rules in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. A covered health care provider that wants to use audio or video communication technology to provide telehealth to patients during the COVID-19 nationwide public health emergency can use any non-public facing remote communication product that is available to communicate with patients. This exercise of discretion applies to telehealth provided for any reason, regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID-19. Covered health care providers may use popular applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype, to provide telehealth; Facebook Live, Twitch, TikTok, and other similar video communication apps, however, should not be used.
<b>Link</b>	<a href="https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html">https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html</a>
<b>Note</b>	<i>While the HHS order loosens requirements around federal health privacy rules, it does not have any effect on security standards. Healthcare providers and telehealth companies must still comply with the HIPAA Security Rule when sharing protected health information.</i>

## DEA Guidance on Prescribing Control Substances

<b>Date</b>	January 31, 2020
<b>Summary</b>	<p>The Drug Enforcement Administrations (DEA), Diversion Control Division issued new guidance, for the duration of the public health emergency, to allow DEA-registered practitioners to issue prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation. All of the following conditions must be met:</p> <ol style="list-style-type: none"> <li>1. the prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;</li> <li>2. the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and</li> <li>3. the practitioner is acting in accordance with applicable federal and state law.</li> </ol>

Provided the practitioner satisfies the above requirements, the practitioner may issue the prescription using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations. Thus, the practitioner may issue a prescription either electronically (for schedules II-V) or by calling in an emergency schedule II prescription to the pharmacy, or by calling in a schedule III-V prescription to the pharmacy.

**Link**

<https://www.deadiversion.usdoj.gov/coronavirus.html>

## HHSC Guidance: IDD and BH Contracted Providers Broadcast Message No. 20-26

<b>Date</b>	March 20, 2020
<b>Summary</b>	<p>HHSC recognizes business as usual is not possible and provides the following guidance to provide temporary adjustments to provider operations:</p> <ul style="list-style-type: none"> <li>• IDD-BH contracts and procurements are expected to continue to move forward as planned as staff works collaboratively across all HHS areas to ensure completion.</li> <li>• Mental Health Performance Contract Notebook performance measures and target expectations will be relaxed.</li> <li>• Expanded use of the telephone to provide services (e.g., telehealth, telemedicine) and to interview collateral contacts is encouraged. Providers must document all telephonic contacts in the client record.</li> <li>• For mental health general revenue services, telephonic resources in lieu of a face-to-face assessment and reassessment may be used by providers to complete the Child and Adolescent Needs and Strengths (CANS) and the Adult Needs and Strengths Assessment (ANSA).</li> <li>• Block grant-funded mental health services may be provided utilizing teleservices.</li> <li>• It is important that documentation is maintained on all services provided. We will need to work out the details on how those services get reported.</li> </ul>
<b>Link</b>	No link available

## Claim-handling Deadlines and Premium Payments Commissioner's Bulletin # B-0007-20

<b>Date</b>	March 23, 2020
<b>Summary</b>	<b>To:</b> All insurers licensed to write life and accident and health insurance, health maintenance organizations, agents, third-party administrators, utilization review

agents, MEWAS licensed in Texas; all insurance companies, corporations, exchanges, mutual, reciprocals, associations, Lloyds, other insurers writing property and casualty insurance in the state of Texas, including workers' compensation insurance; agents and representative; adjusters; premium finance companies; and other relevant parties

**Prompt payment deadline extension:** On March 20, 2020, Governor Abbott suspended certain claim-handling deadlines imposed by law. Additionally, the Commissioner of Insurance has determined that the COVID-19 pandemic is a disaster under Texas Insurance Code Section 542.059(b). This declaration is necessary due to the significant disruption to policyholders, carriers, and their staff caused by this disaster, in particular the impact and volume of claims expected to be filed as a result of COVID-19. Taken together, the Governor's suspension and the Commissioner's declaration have the effect of extending claim-handling deadlines imposed by the state's prompt payment laws for an additional 15 days to help carriers respond to the COVID-19 outbreak. This extension will be in effect until the Governor's suspension and Commissioner's declaration are lifted. Carriers must continue to:

- Promptly identify, evaluate, and resolve claims.
- Promptly acknowledge receipt of a claim.
- Promptly make appropriate assignments for the investigation of a claim.

Consumers and providers should continue to get timely service and receive prompt claims payments. Consumers or providers experiencing problems should contact the TDI Help Line at 1-800-252-3439.

**Link**

<https://www.tdi.texas.gov/bulletins/2020/B-0007-20.html>

## CMS Guidance: Medicaid Fee-for-Service Telehealth Payments

### Summary

Centers for Medicare and Medicaid Services (CMS) encourages states to consider telehealth options as a flexibility in combating the COVID-19 pandemic and increasing access to care. States have a great deal of flexibility with respect to covering Medicaid services provided via telehealth:

- States may pay a qualified physician or other licensed practitioner at the distant site (the billing provider) and the state's payment methodology may include costs associated with the time and resources spent facilitating care at the originating site. The billing provider may distribute the payment to the distant and originating sites.
- States may also pay for appropriate ancillary costs, such as technical support, transmission charges, and equipment necessary for the delivery of

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telehealth services. A state would need an approved State plan payment methodology that specifies the ancillary costs and circumstances when those costs are payable.

States are not required to submit a State plan amendment (SPA) to pay for telehealth services if payments for services furnished via telehealth are made in the same manner as when the service is furnished in a face-to-face setting. However, a state would need an approved SPA to establish rates or payment methodologies for telehealth services that differ from those applicable for the same services furnished in a face-to-face setting.

**Link**

<https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-telehealth-services.pdf>