

Summary of Guidance for Telehealth and Remote Service Provision related to COVID-19

Mental Health Providers

March 16, 2020

Information Letter was sent to County Operated and Contracted Providers providing guidelines for using Telehealth in response to the COVID-19 public health emergency.

The initial guidance was focused on using the existing Telepsychiatry P&P as a model for standing up telehealth for clinics while reducing barriers to access and expanding telehealth to clinical services as well as medication services. This includes providing telehealth services from various locations including the staff home or remote work site.

While it is our aim to improve access, the Division of Behavioral Health Services (BHS) is also obligated to ensure safe, quality care and protect beneficiaries' Protected Health Information (PHI) in compliance with HIPAA, the California Medical Information Act, and, if applicable, 42 CFR Part 2 or California Welfare & Institutions Code section 5328. With those responsibilities in mind the MHP is issuing the following guidelines and recommendations:

1. Providers will review the attached updated Telehealth P&P. ***Telehealth Services During COVID-19 National Emergency- Technical Guidelines Checklist and Attestation for Local Providers*** must be signed by the administrator who has contract signing authority and returned to your County Contract Monitor and Program Manager prior to implementing Telehealth. The P&P can also be found at Sacramento County Behavioral Health website [PP-BHS-QM-00-10-DBHS-Telepsychiatry](#).
2. The use of a HIPAA compliant platform for communication is necessary to protect beneficiaries protected health information (PHI). These could include, but are not limited to: ZOOM, SBR Health, VSee, Skype for Business, etc.
3. Providers, including all direct service provider staff and supervisors, will review both the ***Guidelines for Use of Telehealth Treatment*** and ***Staff Attestation for Telehealth Services***. Staff Attestation will be signed by Provider staff and placed in the staff's personnel file.
4. Providers will review the ***Guidelines for Use of Telehealth Treatment*** with beneficiaries (and legal guardians if applicable). A copy of these guidelines will be provided/sent to the beneficiary for future reference. Documentation of this review and agreement will be entered into the beneficiary's record.
5. Providers will develop or update a policy and procedure for oversight and monitoring for client safety, quality of care and HIPAA privacy protections related to Telehealth Services. This P&P will be sent to the MHP Quality Management Unit at QMInformation@saccounty.net
6. Providers will update Consents for Treatment to include the use of telehealth as an option for service provision.

Attachments included:

1. [Staff Attestation for Telehealth Services](#) – This form must be reviewed and signed by each direct service provider and placed in their Provider’s personnel file.
2. [Guidelines for Use of Telehealth Treatment](#) – This form should be reviewed with each beneficiary who is receiving services via telehealth. A verbal agreement from the beneficiary will be documented in the client record and a copy of the form will be sent to the beneficiary for future reference. 4/8/20 *Update* *This document has been translated.*

March 18, 2020

An updated information notice was sent to providers based on information released from the U.S. Department of Health and Human Services (DHHS), Office for Civil Rights (OCR) regarding the waiving of potential penalties for good faith use of telehealth during the COVID-19 public health emergency. This applies widely to communications apps such as Skype for Business, Zoom or other remote business video communication products and non-public facing audio or video communication applications (i.e., Apple FaceTime or Facebook Messenger video chat).

Office of Compliance has been in discussions with County Counsel and BHS Quality Management Unit. Based on these discussions and the OCR’s decision to waive potential penalties for HIPAA violations due to the use of communication applications during the COVID-19 public health emergency, any HIPAA-covered program that wants to use audio or video communication technology during this public health emergency, can do so. Use of such applications from home falls within these guidelines. Please note the following:

- Complying with HIPAA regulations is always preferable and the Privacy Rule is NOT suspended during this time.
- The OCR has approved of the use of any non-public facing remote communication product available to communicate with patients. Any use of these applications should be discussed at the provider level and policies and procedures should be updated to include the oversight and monitoring for client safety and quality of care.
- Direct service staff should be notified that the use of personal devices with these applications may result in the client having access to their personal contact information that may be used at will and beyond the current public health crisis.
- Under the OCR’s Notice, applications such as Facebook Live, Twitch, TikTok etc. that are public facing should NOT be used.
- Direct service staff must inform clients that the use of these applications does increase potential privacy risks. This should be included in any informed consent document created or updated by your Program/Agency.

An updated **Provider Attestation** has been created to take into consideration the updated information. Please sign and return to your Contract Monitor and County Division Manager

Additional information regarding HIPAA and the current public health crisis:

A copy of the Notice from OCR regarding telehealth is attached here. <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Additional information regarding HIPAA Privacy and the Novel Corona Virus can be found at

<https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf>

For more guidance regarding preparedness, planning and response during emergency situations, please see the attached link.

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/index.html>

Attachment:

1. [Telehealth Provider Attestation](#) – Updated to take into account the expanded use of telehealth beyond medication services.

March 24, 2020 (amendment March 26, 2020)

During a call with Provider CEO/ED's there was a request for additional clarification for the use of telehealth services. An email was sent to provide additional clarity regarding standards for telehealth and how service verification should be conducted during this time. On 3/26/2020 an amendment was sent to add further guidance.

Providing Services via Telehealth

Regardless of the originating site (location of the direct service provider) please adhere to the following guidelines:

1. The provider location (office or home) shall be considered a clinical setting and provider shall ensure privacy so clinical discussion cannot be overheard by others outside of the room where the service is being provided. A well-lit space is optimal so that the client can see your face as it is still essential to establishing good rapport.
2. The provider should obtain an interpreter (over the phone or Video Remote Interpreting as appropriate) in order to communicate with a client with Limited English Proficiency or who is Deaf or Hard of Hearing.
3. The provider should review the following with the client to ensure that the client understands the boundaries and potential risks:
 - a. Review the need for privacy and establish a place that the client can feel safe to discuss issues or concerns. In the event finding a private location is difficult then please use reasonable precautions, such as using lowered voices, not using speakerphone, sitting in a car, if available, or recommending that the client move to a reasonable distance from others that might overhear the conversation.

- b. Discuss boundaries related to the use of telehealth services that replicate in-person services.

Recommended Do's

- i. Establish a regular appointment time.
- ii. Provide emergency contact phone numbers and/ or safety plan in the event the client needs support between appointments.
- iii. Provide in person, essential services outlined in your contract scope during business hours if telehealth is not a viable option. (Ex: injections, vitals, in person crisis intervention, etc.) Utilize recommended COVID-19 precautions when providing face-to-face services.
- iv. Direct clients in crisis to utilize the Mental Health Urgent Care Clinic (MHUCC) if having a mental health crisis, rather than the Emergency Department (ED), when it is after business hours, the weekend, or a holiday and within MHUCC hours of operation. **We do not want to risk exposing our clients to COVID-19 or further overwhelm the EDs.**

Recommended Don'ts

- v. Don't give your personal contact information (cell phone or email)
 - vi. Don't provide access to personal social media accounts (accepting friend requests or following).
- c. Discuss safety issues and safety plans in the event the client needs crisis services. Inform/remind client that your mandated reporting requirements are still in place.
 - d. Review how consents and Releases of Information will be conducted (See Information Notice March 24, 2020 – Written and Verbal Consents – Emergency Protocol)
- 4. Provider should review client expectations.
 - a. Communicating the need to cancel or reschedule – provider should give instruction on how this should happen.
 - b. Client should treat the session as an in-person session (i.e., appropriately dressed, not lying down, no use of alcohol or drugs, no distractions location permitting, etc.) ***These standards apply to the service provider as well.***
 - 5. The provider should not record or maintain paper records outside of the Electronic Health Record (EHR)
 - 6. Documentation should be completed as soon as possible and follow documentation timelines and standards.
 - a. If providing services over the phone then service location is “phone”
 - b. If providing services via video conferencing/telehealth platform then service location is “telehealth”

Service Verification

Service Verifications should continue to be collected. Until standard face-to-face visits can resume, providers are directed to call beneficiaries and conduct service verification over the phone. We understand that this may be difficult during this time so just please do what you can to ensure that services are truly being provided.

1. Identify staff at your agency who will be responsible for making these calls
2. Calculate the (at minimum) 5% of client services which must be verified
3. Document the calls on the attached spreadsheet, noting the date and time of call, name of beneficiary, Avatar ID, date of service, length of service as indicated by beneficiary, documented length of service, staff who provided service, if the service was successfully verified
4. Do NOT send call log to QM as it contains PHI. Maintain it as you would standard Service Verification cards.
5. Send in standard monthly Service Verification/OIG report

Attachment:

1. **Service Verification Call Log**

April 2, 2020

Responses to questions regarding initial assessments via phone:

There is a difference between the clinical assessment and the initial psychiatric assessment (IPA). The MHP agrees that all clinical assessments can be completed in person, via phone or telehealth. For IPAs there was a call with the Medical Directors on Monday and it was discussed there. The direction given was that phone was allowable but should be based on:

1. The psychiatrist level of comfort doing an assessment and prescribing sight unseen. Many were not
2. The type of medical history and risk level for the client
3. How familiar the clinical staff is with the client and what information they are able to provide to the doc
4. What type of medication is being prescribed

Guidance regarding documentation and claiming for service location:

Face-to-Face services – Business as usual. No changes to service location requirements. No modifiers are needed for claims submission.

Phone – If services are provided via phone (no use of video) then you must use “Phone” as the location code. Indicate the reason for using the phone as the method of service delivery. Example: “Providing

(enter service type) via phone in response to the COVID-19 Safer at Home public health order.” No modifiers are needed for claims submission.

Telehealth - If services are provided via telehealth (two way interactive, audio-visual communication) then you must use “Telehealth” as the location code. Indicate the reason for using the phone as the method of service delivery. Example: “Providing (enter service type) via telehealth in response to the COVID-19 Safer at Home public health order.” **A GT modifier will be required.** Please see “[Mental Health Avatar Tip Sheet](#)” attachment for directions.