

MMHPI COVID-19 Regulatory & Reimbursement Newsletter

Letter to Providers #18: State and Federal Updates – July 24, 2020

With federal and state health care policies changing in response to COVID-19, the Meadows Mental Health Policy Institute (MMHPI) is issuing *COVID-19 Regulatory & Reimbursement Newsletters* to support providers. In these newsletters, we highlight recent changes and extensions to regulatory and reimbursement rules, as well as newly published or updated guidance and answers to frequently asked questions.

These newsletters, along with additional information on mental health resources during a pandemic, are posted here: <https://www.texasstateofmind.org/covid-19/>. 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@mmhpi.org.

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Texas Updates

HHSC Updates Behavioral Health Providers FAQs

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| Date | July 17, 2020 |
| Summary | <p>The Texas Health and Human Services Commission (HHSC) updated the COVID-19-related frequently asked questions (FAQs) for behavioral health providers to include the following:</p> <ul style="list-style-type: none"> • Are Home and Community Based Services-Adult Mental Health (HCBS-AMH) providers required to report positive COVID-19 cases to HHSC? • We are having trouble getting people admitted to the hospital due to the overflow of COVID-19 patients in emergency rooms. There are often no rooms available, so individuals on mental health warrants are leaving the hospital and not receiving treatment. Can mental health warrant/emergency detention (ED) evaluations be done in a different environment instead of the emergency room? • Does HHSC have guidance about how to mitigate the spread of COVID-19 in HCBS-AMH supervised and assisted living homes? • How do Home and Community Based-Adult Mental Health (HCBS-AMH) providers report positive COVID-19 cases to HHSC, and is this required? • When will staff from local mental health and behavioral health authorities be able to go into nursing facilities to complete Preadmission Screening Admission Resident Reviews (PASRR) evaluations? |
| Link | https://hhs.texas.gov/sites/default/files/documents/services/health/behavioral-health-services-covid-faq.pdf |

Emergency Rule Extension: Advance Practice Nursing (APRN) Authority

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| Date | July 7, 2020 |
| Summary | <p>The Texas Board of Nursing adopted emergency amendments to 22 Texas Administrative Code (T.A.C.) Section 217.24, relating to Telemedicine Medical Service Prescriptions. On March 23, 2020, the Office of the Governor granted a waiver of 22 T.A.C. Section 217.24(e)(1), which prohibits an advanced practice registered nurse (APRN) from treating chronic pain with scheduled drugs through the use of telemedicine medical services, unless otherwise permitted under federal and state law. The re-adoption of emergency amendments to Section 217.24(e)(1) allows APRNs to continue to provide necessary treatment to established patients with chronic pain, while mitigating the risk of exposure to COVID-19. Under the emergency amendments, an APRN may treat chronic pain with scheduled drugs through use of telemedicine medical services if a patient is an established chronic pain patient of the APRN, is seeking a telephone refill of an existing prescription,</p> |

and the APRN determines that the telemedicine treatment is needed due to the COVID-19 pandemic.

Link

<https://www.sos.texas.gov/texreg/archive/July172020/Emergency%20Rules/22.EXAMINING%20BOARDS.html#5>

Emergency Rule Extension: Medication Refills

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| Date | July 16, 2020 |
| Summary | <p>The Texas Department of Insurance (TDI) has extended its emergency rule on prescription medication refills. The temporary emergency rule, which would have expired July 29, 2020, will remain in effect until September 27, 2020. The emergency rule requires health plans regulated by TDI to:</p> <ul style="list-style-type: none"> • Pay for a 90-day refill of covered medications regardless of when the prescription was last refilled, unless specifically prohibited by law as in the case of controlled substances; • Allow prescriptions to be filled at out-of-network pharmacies at no additional cost to the consumer if the drug isn't available quickly through mail order or at an in-network pharmacy within 30 miles; • Allow substitutions if the plan's preferred drug is unavailable due to shortages or distribution issues; and • Waive any requirement for a consumer's signature unless specifically required by law. |
| Link | https://www.tdi.texas.gov/news/2020/tdi07162020.html |

Home and Community Supports: HCSSA COVID-19 Screening Requirements

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| Date | July 20, 2020 |
| Summary | <p>HHSC issued provider letter 20-35, Screening for COVID-19 and Documentation of Screening, for Home and Community Support Services Agencies (HCSSAs), including hospice inpatient units. To prevent the spread of COVID-19 and in accordance with emergency rules, a HCSSA must conduct screening activities for staff, clients, household members of clients, and people entering a hospice inpatient unit. A HCSSA also must document that all required screenings occurred.</p> |
| Link | https://apps.hhs.texas.gov/providers/communications/2020/letters/PL2020-35.pdf |

HHSC Amendment: Telemedicine in Rural Trauma Facilities

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| Date | July 20, 2020 |
| Summary | HHSC issued guidance letter 20-2004-A, amending GL 20-2004, which was originally released on June 10, 2020. The amendment clarifies the chapter number of the Health and Safety Code amended by House Bill (HB) 871. HB 871 added Section 773.1151, Health and Safety Code, The Use of Telemedicine Medical Service by Certain Trauma Facilities, which permits the use of telemedicine medical services to satisfy a Level IV trauma facility designation requirement for facilities located in a county with a population of less than 30,000. |
| Link | https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/facilities-regulation/memos/gl-20-2004-a.pdf |

Hospital Supply and Resource Needs Request Process

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| Summary | Texas hospitals are again facing shortages of certain supplies and have other pressing resource needs given the surge of cases and hospitalizations. Health care providers or facilities can submit a State of Texas Assistance Request (STAR) for assistance. Here are the state's official instructions with additional context for submission. The materials acknowledge challenges with personal protective equipment, laboratory supplies, and medical supplies. |
| Link | https://www.dshs.texas.gov/coronavirus/docs/DSHS-TDEM-COVID19PPESTAROverview.pdf |

Electricity for Medically Vulnerable Texans

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| Summary | Texas' electric companies are making sure hospitals know about supports available to ventilated patients discharged to an at-home setting to ensure their electricity is not disconnected. The Public Utility Commission created an Electricity Relief Program in March to assist consumers residing in ERCOT territory and in eligible areas parts of Texas open to customer choice who are unable to pay their bill because of serious financial trouble caused by COVID-19. Critical care designations are also available for these same territories. |
| Link | https://www.txcovid19erp.org/ |

Federal Updates

HHS Extends Deadline to Apply for Medicaid and CHIP Provider Relief Fund

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| Summary | <p>The U.S. Department of Health and Human Services (HHS) announced that it will begin distributing \$10 billion in a second round of high impact COVID-19 area funding to hospitals. Payments totaling \$10 billion will go out to over 1,000 hospitals as early as today. Forty-four Texas hospitals are expected to receive a total of \$378 million. The full list of recipients is available here.</p> <p>On June 8, 2020, HHS asked hospitals to submit data on their COVID-19 positive-inpatient admissions from January 1, 2020 through June 10, 2020. Using those data, HHS will distribute funds to hospitals with more than 161 COVID-19 admissions during this time period, which equates to one admission per day. It also will distribute funds to those hospitals that experienced a disproportionate intensity of COVID-19 admissions (those that exceeded the average ratio of COVID-19 admissions/bed).</p> <p>HHS also announced that it is extending the Medicaid and CHIP Provider Relief Fund distribution provider application deadline to apply to August 3, 2020. More information and the application portal is available here.</p> |
| Links | <p>https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/for-providers/index.html</p> <p>https://www.hhs.gov/about/news/2020/07/17/hhs-begin-distributing-10-billion-additional-funding-hospitals-high-impact-covid-19-areas.html</p> |

CMS and Telehealth

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| Date | July 15, 2020 |
| Summary | <p>Centers for Medicare and Medicaid Services (CMS) Administrator Seema Verma published a blog post in <i>Health Affairs</i> outlining the impact telehealth has had during the COVID-19 pandemic. The post also provides that CMS is reviewing the temporary changes made during the pandemic and assessing which of these flexibilities should be made permanent through regulatory action.</p> |
| Link | <p>https://www.healthaffairs.org/doi/10.1377/hblog20200715.454789/full/</p> |

New Federal HHS Coronavirus Daily Hub

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| Date | July 20, 2020 |
| Summary | HHS unveiled its new coronavirus data hub, the new system that replaces the National Health Safety Network that hospitals previously used to report COVID-19 data to the federal government. The new data hub provides the public access to raw data and enables reporting and predictive modeling of complete and partial data from more facilities. It also will show missing data elements at the hospital and state level in order to increase reporting of complete data. The hub currently says 458 or about 74% of Texas hospitals are reporting data. The hub sends to hospitals and states with missing data automated messages, notifying them that the data they reported is incomplete. |
| Link | https://protect-public.hhs.gov/ |

CMS Lifts Suspension of Enforcement Activity

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| Date | July 21, 2020 |
| Summary | Suspension of enforcement activity was lifted as of June 1, 2020, according to CMS letter QSO 20-31 . Enforcement template letters specific to Focused Infection Control surveys will no longer be issued. HHSC will issue its normal enforcement letters for all surveys with exit dates of June 1, 2020 and later. Providers that choose to dispute findings should ensure an Informal Dispute Resolution request is submitted within 10 days of receipt of the forms CMS 2567 and HHSC 3724. |
| Link | http://www.tmhp.com/News_Items/2020/07-July/CMS%20Lifts%20Suspension%20of%20Enforcement%20Activity%20Effective%20June%201.pdf |

Office of Civil Rights Disability Complaint / Critical Care Guidance

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| Date | June 26, 2020 |
| Summary | <p>Recent updates to the state of Tennessee's crisis standards of care (CSC) resolved a complaint filed with the HHS Office of Civil Rights (OCR). The complaint alleged that the state's standards inappropriately discriminated based on age or disability. With the technical assistance of OCR, Tennessee updated its CSC plan and:</p> <ul style="list-style-type: none"> • Clarified that age or disability are not to be used as criteria for the allocation or re-allocation of scarce medical resources; • Removed language permitting the use of a patient's long-term life expectancy as a factor in the allocation of resources; |

- Added language reflecting that a modified assessment of the likelihood of short-term survival should be made when necessary for accurate use of the standards with patients with underlying disabilities;
- Removed categorical exclusion criteria prohibiting people with disabilities from receiving care on the basis of their diagnosis; and
- Incorporated language stating that hospitals should not re-allocate personal ventilators brought by a patient to an acute care facility to continue pre-existing personal use with respect to a disability.

In response, the [North Texas Mass Critical Care Guidelines](#), which contained similar language to Tennessee’s guidance, will be revised to comply with OCR guidance. Updated North Texas guidance will be shared when it becomes available.

Link

<https://www.hhs.gov/about/news/2020/06/26/ocr-resolves-complaint-tennessee-after-it-revises-its-triage-plans-protect-against-disability.html>

HHS and Racial Disparities

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| Date | July 20, 2020 |
| Summary | HHS released guidelines for federally-funded health care providers aimed at preventing discrimination based on race, color, and national origin during the pandemic. The new rules were prompted by higher infection rates and death rates in vulnerable populations. Under the rules, state and local agencies, hospitals, and other health care providers that receive federal funding must create proactive policies preventing racial discrimination. |
| Link | https://www.hhs.gov/sites/default/files/title-vi-bulletin.pdf |

CDC: Natural Disasters and COVID-19

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| Summary | Centers for Disease Control and Protection (CDC) has launched a new website, Natural Disasters, Severe Weather, and COVID-19, that includes information on preparedness and recovery during the COVID-19 response and what the general public can do to keep themselves safe. |
| Link | https://www.cdc.gov/disasters/covid-19/disasters_severe_weather_and_covid-19.html |

CDC Report: Face Cloth Study

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| Date | July 17, 2020 |
| Summary | CDC issued a report on the use of face cloths among adults during the pandemic. The study found that after the White House Coronavirus Task Force and CDC recommended use of cloth face coverings in public places, high rates of cloth face covering use were reported in the U.S. An increase in the rate of cloth face covering use was observed from April to May and was sustained, particularly among non-Hispanic Blacks and other races, Hispanics, persons aged ≤ 39 years, and persons living in the Northeast. Public health messages should target audiences not wearing cloth face coverings and reinforce positive attitudes, perceived norms, personal agency, and physical and health benefits of obtaining and wearing cloth face coverings consistently and correctly. |
| Link | https://www.cdc.gov/mmwr/volumes/69/wr/mm6928e3.htm?s_cid=mm6928e3_w |

CDC Report: COVID-19 Transmission at Hair Salons

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| Date | July 17, 2020 |
| Summary | CDC released a new report on the absence of apparent COVID-19 transmission from two stylists after exposure at a hair salon with a universal face covering policy. The two hairstylists at a Missouri salon who had COVID-19 but wore face masks cut the hair of 139 masked customers for roughly a week and did not infect a single client. They also did not infect any of the clients' contacts or any of the other stylists in the salon. Adherence to the community's and company's face-covering policy likely mitigated spread of SARS-CoV-2. |
| Link | https://www.cdc.gov/mmwr/volumes/69/wr/mm6928e2.htm?s_cid=mm6928e2_w |

Report of Persistent Symptoms in Patients After Acute COVID-19

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| Date | July 9, 2020 |
| Summary | The <i>Journal of American Medical Association</i> released a report on persistent symptoms after acute COVID-19. The study found that in patients who had recovered from COVID-19, 87.4% reported persistence of at least one symptom, particularly fatigue and dyspnea. Patients with community-acquired pneumonia can also have persistent symptoms, suggesting that these findings may not be exclusive to COVID-19. |
| Link | https://jamanetwork.com/journals/jama/fullarticle/2768351 |

New Education Opportunity: Pulmonary Complications

Summary

The most serious reported symptoms from COVID-19 are pulmonary complications. As such, the American Association of Critical Care Nurses has put together a free eLearning course available 24/7 for all nurses. The course includes real-world intensive care unit (ICU) scenarios, while interactive elements encourage the development of safe and effective practices. Up to four and a half hours of continuing education is available. More information can be accessed [here](#).

Link

<https://www.aacn.org/education/online-courses/covid-19-pulmonary-ards-and-ventilator-resources>