

MMHPI COVID-19 Regulations & Reimbursement Newsletter

Letter to Providers #2: State and Federal Updates – April 3, 2020

With federal and state health care policies changing rapidly in response to COVID-19, the Meadows Mental Health Policy Institute (MMHPI) is issuing *Regulation & Reimbursement Newsletters* to support providers we have connections with as they navigate this new terrain. In this newsletter we highlight several recent changes to regulatory and reimbursement rules. 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.

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CMS Regulatory Changes to Address Patient Surge

Date	March 30, 2020
Summary	<p>The Centers for Medicare and Medicaid Services (CMS) issued an unprecedented array of temporary regulatory waivers and new rules to equip the American healthcare system with maximum flexibility to respond to the COVID-19 pandemic. These temporary changes will apply immediately across the entire U.S. healthcare system for the duration of the emergency declaration. This allows hospitals and health systems to deliver services at other locations to make room for COVID-19 patients needing acute care in their main facility. The changes complement and augment the work of FEMA and state and local public health authorities by empowering local hospitals and healthcare systems to rapidly expand treatment capacity that allows them to separate patients infected with COVID-19 from those who are not affected. CMS's waivers and flexibilities will permit hospitals and healthcare systems to expand capacity by triaging patients to a variety of community-based locales, including ambulatory surgery centers, inpatient rehabilitation hospitals, hotels, and dormitories.</p> <p>Building on prior action to expand reimbursement for telehealth services to Medicare beneficiaries, CMS will now allow for more than 80 additional services to be furnished via telehealth. During the public health emergencies, individuals can use interactive apps with audio and video capabilities to visit with their clinician for an even broader range of services. Providers also can evaluate beneficiaries who have audio phones only.</p>
Links	<p>Unpublished rule: https://www.federalregister.gov/documents/2020/04/06/2020-06990/medicare-and-medicaid-programs-policy-and-regulatory-revisions-in-response-to-the-covid-19-public</p> <p>News release: https://www.cms.gov/newsroom/press-releases/trump-administration-makes-sweeping-regulatory-changes-help-us-healthcare-system-address-covid-19</p>

SBA Paycheck Protection Program

Summary	<p>The Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll. The Small Business Association (SBA) will forgive loans if all employees are kept on the payroll for eight weeks and the money is used for payroll, rent, mortgage interest, or utilities. The Paycheck Protection Program will be available through June 30, 2020.</p>
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This program is for any small business with less than 500 employees (including sole proprietorships, independent contractors and self-employed persons), private non-profit organization or 501(c)(19) veterans organizations affected by COVID-19. The funding for the program will go FAST as it is open to small businesses with fewer than 500 employees that apply/meet the criteria on a first-come, first-serve basis. We recommend that you contact your banker/financial institution ASAP to begin the process.

Lenders may begin processing loan applications as soon as April 3, 2020.

Link

<https://www.sba.gov/funding-programs/loans/paycheck-protection-program-ppp>

TMB FAQs Regarding Telemedicine

Date	March 19, 2020
Summary	<p>The Texas Medical Board (TMB) released the following frequently asked questions (FAQs) regarding telemedicine during Texas Disaster Declaration for COVID-19 Pandemic:</p> <ul style="list-style-type: none"> • What is telemedicine? • How has telemedicine changed due to the Governor’s disaster declaration? • What types of care can be provided by a phone-only encounter? • Does the standard of care still apply in a telemedicine visit during the disaster declaration? • What are the requirements for documenting a telemedicine visit? • How does a physician get a patient’s consent if using telemedicine? • What about HIPAA and telemedicine? • What kinds of prescriptions can a physician do via telemedicine? • What does TDI’s emergency telemedicine rule do? • How does a physician bill for telemedicine? • How does a physician bill for a telemedicine visit to establish a doctor-patient relationship? • How does a physician bill for a telemedicine consultation for follow-up care? • What phone calls are not billable?
Link	http://www.tmb.state.tx.us/idl/A2936385-466D-15D1-0F9E-F486D0491A27

LPC and LCSW Telehealth Guidelines from Licensing Boards

Date	March 20, 2020
Summary	<p>Licensed Professional Counselors (LPCs): The Texas Counseling Association (TCA) confirmed there is no limitation on the use of technology in the delivery of counseling services by LPCs, so there is no limitation on providing services telephonically. TAC 22 Chapter 681 Section 681.41(g) provides, “Technological means may be used to facilitate the therapeutic process.”</p> <p>TCA also worked with BHEC to come up with a work around for “written consent”: “Informed consent is required to provide telehealth services to new clients. For new clients who do not have access to a computer and cannot physically come into the office due to the COVID-19 outbreak, the LPC can discuss the required informed consent components over the phone with the client who can then text or email consent from their phone. The LPC can print out the text or email and include it in the clients record with a brief statement that informed consent components were discussed on the phone and the assent relates to the required informed consent. Then sign and date the document.”</p> <p>Licensed Clinical Social Workers (LCSWs) can provide telehealth services without any special training or certification (See 22 TAC 781.223). For new clients, an LCSW would need to secure written informed consent per 22 TAC 681.41(e).</p> <p>For an acceptable workaround for securing written informed consent for new clients who do not have access to a computer and cannot physically come into the clinic due to the COVID-19 outbreak, the LCSW could simply cover the required informed consent components over the phone with the client. The client can then simply text or email their assent from his or her phone. The text or email could then be printed out (or photocopied if in text format) by the provider and included in the file. When including such a printout or copy in the patient file, the provider should notate on the copy a brief statement that the assent relates to the required informed consent, and then sign or initial and date the document.</p>
Link	https://txca.org/news/telehealth_informed_consent_op.php

Targeted Case Management Through Remote Delivery

Date	April 1, 2020
Summary	<p>Case management may be delivered through synchronous audio-visual technologies or telephone (audio-only). Providers should bill procedure code T1017 using the 95 modifier to indicate that remote delivery occurred. This direction applies to the following services:</p> <ul style="list-style-type: none"> • Mental Health Targeted Case Management (MHTCM) • Intellectual or developmental disability (IDD) case management • Targeted Case Management for Early Childhood Intervention (ECI) • Case Management for Blind and Visually Impaired Children (BVIC) • Case Management for Children and Pregnant Women (CPW)
Link	http://www.tmhp.com/News_Items/2020/04-April/04-01-20%20COVID-19%20Guidance%20Targeted%20Case%20Management%20Through%20Remote%20Delivery.pdf

New COVID-19 Diagnosis Code U017

Date	March 27, 2020
Summary	<p>The Centers for Disease Control and Prevention’s National Center for Health Statistics is implementing a new diagnosis code into the International Classification of Diseases, Tenth Revision, Clinical Modification for reporting Novel Coronavirus Disease (COVID-19). Effective April 1, 202 for dates of service on or after February 20, 2020, diagnosis code U017 will be a benefit of Texas Medicaid and the Children with Special Health Care Needs Services program for reporting COVID-19.</p>
Link	http://www.tmhp.com/News_Items/2020/03-March/03-27-20 New COVID-19 Diagnosis Code U017-Texas Medicaid -CSHCN-Eff- April 1, 2020.pdf

FQHC Reimbursement for Telemedicine (Physician Delivered) and Telehealth (Non-Physician-Delivered) Services

Date	March 18, 2020
Summary	<p>To help ensure continuity of care during the COVID-19 response, the Texas Health and Human Services Commission (HHSC) will begin reimbursing Federally Qualified Health Centers (FQHCs) as telemedicine (physician-delivered) and telehealth (non-physician-delivered) service distant site providers effective immediately. FQHCs can continue to bill for telemedicine services rendered by affiliates, although an affiliate agreement is not required for an FQHC to be reimbursed as a telemedicine or telehealth distant site</p>

provider. To indicate that remote delivery occurred, FQHCs should use the 95 modifier when submitting claims and encounters.

Link http://www.tmhp.com/News_Items/2020/03-March/03-18-20%20FQHC%20Reimbursement%20for%20Telemedicine%20Phys%20Delivered%20and%20Telehealth%20Non-Phys.pdf

RHC Reimbursement for Telemedicine and Telehealth Services

Date	March 30, 2020
Summary	To help rural health clinics (RHCs) deliver care to clients in response to COVID-19, RHCs may be reimbursed as telemedicine and telehealth distant site providers statewide for service dates from March 24, 2020 through April 30, 2020. RHCs should use the modifier 95 on claims to indicate use of telehealth or telemedicine modality.
Link	http://www.tmhp.com/News_Items/2020/03-March/03-30-20%20RHC%20Reimbursement%20for%20Telemedicine%20and%20Telehealth%20Services.pdf

1135 Waivers

Date	March 31, 2020
Summary	If the President declares an emergency or disaster under the Stafford Act or National Emergencies Act, then the HHS Secretary can declare a public health emergency per Section 319 of the Public Health Service Act and, under section 1135 of the Social Security Act, the HHS Secretary can also temporarily waive or modify certain Medicare, Medicaid, and Children’s Health Insurance Program (CHIP) requirements. ¹ States are then allowed to submit requests to the federal government to waive or modify certain Social Security Act programs in order to ensure that service recipients have sufficient access to services during the federal emergency and that providers continue to be reimbursed even if providers cannot comply with federal requirements that would under normal circumstances be allowed under Medicare, Medicaid or CHIP for reimbursement. The federal government can also issue blanket waiver modifications under the 1135 authority when states have similar waiver and modification needs. If approved, the 1135 waivers under the Social Security Act, will typically last as long as necessary during the public health emergency. ²

¹ <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/1135-Waivers-At-A-Glance.pdf>

² <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/1135-Waivers>

The Texas Health and Human Services Commission (HHSC) submitted the initial Medicaid 1135 waiver request on March 25, 2020 and received partial federal approval on March 30, 2020.

Link <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/entry/54093>

HHSC Launches Statewide COVID-19 Mental Health Support Line

Date	March 31, 2020
Summary	HHSC launched a 24/7 statewide mental health support line to help Texans experiencing anxiety, stress or emotional challenges due to the COVID-19 pandemic. This new resource offers COVID-19-related mental health support for all Texans. People can call the Statewide COVID-19 Mental Health Support Line 24 hours a day, 7 days a week toll-free at 833-986-1919.
Link	https://hhs.texas.gov/about-hhs/communications-events/news/2020/03/hhs-launches-statewide-covid-19-mental-health-support-line

Expedited Enrollment of Medicaid Providers

Date	March 27, 2020
Summary	Due to the COVID-19 disaster, effective March 1, 2020, providers not enrolled with Texas Medicaid or the Children with Special Health Care Needs (CSHCN) Service Program can expedite the enrollment process using the Texas Medicaid Health Emergency Enrollment Application. Providers who enrolled with this application can be reimbursed for Medicaid services rendered from March 1, 2020 to August 31, 2020.
Links	Announcement: http://www.tmhp.com/News_Items/2020/03-March/03-27-20%20Public%20Health%20Emergency%20Enrollment%20Application%20Now%20Available.pdf Application link: http://www.tmhp.com/Provider_Forms/Provider%20Enrollment/F00176_Public_Health_Emergency_Application.pdf

CARES Act

Date	March 27, 2020
Summary	<p>On March 27, President Trump signed into law the \$2.2 trillion Coronavirus, Aid, Relief and Economic Security (CARES) Act stimulus bill. In the CARES Act, Substance Abuse and Mental Health Services Administration (SAMHSA) received \$425 million, including the following items:</p> <ul style="list-style-type: none"> • \$50 million for suicide prevention • \$100 million in flexible funding to address mental health, SUD, youth and the homeless • The remaining \$250 million goes to certified community behavioral health clinics (CCBHCs)
Link	https://www.appropriations.senate.gov/imo/media/doc/Coronavirus%20Supplemental%20Appropriations%20Summary_FINAL.pdf

Distance Learning and Telemedicine Program

Date	March 27, 2020
Summary	<p>The CARES Act includes \$25 million to support the Distance Learning and Telemedicine program. This is a grant program at the United States Department of Agriculture (USDA) that requires a 15% match. Grant funds may be used for:</p> <ul style="list-style-type: none"> • Acquisition of eligible capital assets, such as broadband transmission facilities; audio, video and interactive video equipment; and computer hardware, network components and software • Acquisition of instructional programming that is a capital asset • Acquisition of technical assistance and instruction for using eligible equipment • Application deadline is April 10, 2020 for this round
Link	https://www.rd.usda.gov/programs-services/distance-learning-telemedicine-grants

ReConnect Program

Date	March 27, 2020
Summary	The CARES Act also includes \$100 million to the ReConnect program to help ensure rural Americans have access to broadband. This USDA program furnishes loans and grants to provide funds for the costs of construction, improvement, or acquisition of facilities and equipment to provide broadband to eligible rural areas. The current deadline was March 31, 2020 but another application period is expected.
Link	https://www.usda.gov/reconnect

FCC \$200 Million COVID-19 Telehealth Program

Date	March 30, 2020
Summary	The Federal Communications Commission (FCC) announced plans for a COVID-19 telehealth program to support health care providers responding to the ongoing coronavirus pandemic. As part of the CARES Act, Congress appropriated \$200 million to the FCC to support health care providers' use of telehealth services in combating the COVID-19 pandemic. If adopted by the Commission, the program would help eligible health care providers purchase telecommunications, broadband connectivity, and devices necessary for providing telehealth services. These services would directly help COVID-19 patients and provide care to patients with other conditions who might risk contracting the coronavirus when visiting a healthcare provider—while reducing practitioners' potential exposure to the virus.
Link	https://www.fcc.gov/document/chrn-pai-announces-plan-200-million-covid-19-telehealth-program

Accelerated/Advance Payments for Medicare Providers

Date	March 28, 2020
Summary	CMS announced an expansion of its accelerated and advance payment program for Medicare participating health care providers and suppliers, to ensure they have the resources needed to combat COVID-19. This program expansion, which includes changes from the recently enacted CARES Act, is one way that CMS is working to lessen the financial hardships of providers facing extraordinary challenges related to the COVID-19 pandemic, and ensures the nation's providers can focus on patient care. CMS is expanding the program for all Medicare providers throughout the country during the public health emergency related to COVID-19. The payments can be requested by

hospitals, doctors, durable medical equipment suppliers and other Medicare Part A and Part B providers and suppliers.

Link

<https://www.cms.gov/newsroom/press-releases/trump-administration-provides-financial-relief-medicare-providers>

Quality Payment Program and Quality Reporting Program/Value Based Purchasing Program COVID-19 Relief

Date	March 27, 2020
Summary	<p>CMS recently announced relief for clinicians, providers, hospitals and facilities participating in quality reporting programs in response to the 2019 Novel Coronavirus (COVID-19). This memorandum and factsheet supplement and provide additional guidance to health care providers with regard to the announcement. CMS has extended the 2019 Merit-based Incentive Payment System (MIPS) data submission deadline from March 31 by 30 days to April 30, 2020. This and other efforts are to provide relief to clinicians responding to the COVID-19 pandemic. In addition, the MIPS automatic extreme and uncontrollable circumstances policy will apply to MIPS eligible clinicians who do not submit their MIPS data by the April 30, 2020 deadline.</p>
Links	<p>Memo: https://www.cms.gov/files/document/guidance-memo-exceptions-and-extensions-quality-reporting-and-value-based-purchasing-programs.pdf</p> <p>Fact Sheet: https://qpp-cm-prod-content.s3.amazonaws.com/uploads/966/QPP%20COVID-19%20Response%20Fact%20Sheet.pdf</p>