

MMHPI COVID-19 Regulatory & Reimbursement Newsletter

Letter to Providers #7: State and Federal Updates – May 8, 2020

With federal and state health care policies changing rapidly in response to COVID-19, the Meadows Mental Health Policy Institute (MMHPI) is issuing *COVID-19 Regulatory & Reimbursement Newsletters* to support providers 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.

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.

Contents

Texas Updates	2
Disaster Crisis Counseling Services	2
Executive Order GA-19 and Reserving Hospital Capacity	3
Texas Medical Board Emergency Rule	3
Emergency Rules Concerning Chemical Dependency Treatment Services Via Telephone and Internet and Service Delivery Documentation Deadlines in Chemical Dependency Treatment Facilities (CDTFs)	4
Emergency Rules Regarding Licensed Chemical Dependency Counselor Intern (LCDC-I) Service Provision and Supervision via Telephone and Internet	4
COVID-19 In-Home Day Habilitation Information for Program Providers	5
Date-of-Service Extension for Telemedicine (Physician-Delivered) and Telehealth (Non-Physician-Delivered) Services	5
HHSC COVID-19 Waiver Requests	6
Federal Updates	7
CMS Issued New Regulatory Waivers and Rule Changes	7
Telephone (Audio-only) Telehealth Services for Medicare during COVID-19	8
Updated Frequently Asked Questions (FAQs) on Medicare Fee-for-Service (FFS) Billing	8
New FAQs on Emergency Medical Treatment and Labor Act (EMTALA)	9
Quality Payment Program Update	9
Updated Guidance and Resources for Working Remotely	9
CDC Symptom-Based Strategy for Discontinuing Isolation	10
CDC Contact Tracing Standards	10

Uninsured Program Portal Resources 10

Federal Relief Fund Updates 11

 Updated Coronavirus Relief Fund FAQs..... 11

 Additional Paycheck Protection Program (PPP) Guidance 11

 Correspondence Outlining Concerns Regarding the Provider Relief Fund..... 11

 Targeted Allocations from Provider Relief Fund..... 12

Mental Health Burnout Study among Health Care Providers 13

Policing in a Pandemic: A Virtual Peer Support Series.....13

Texas Updates

Disaster Crisis Counseling Services

Date	May 6, 2020
Summary	<p>Governor Abbott announced that the Health and Human Services Commission (HHSC) has received \$5.8 million in federal funding to provide crisis counseling services to Texans who have been affected by the COVID-19 pandemic. The funding is provided by the Federal Emergency Management Agency's (FEMA) Immediate Services Crisis Counseling and Training Program.</p> <p>The grant allows 31 local mental health and behavioral health authorities (LMHAs/LBHAs) to connect Texans to short-term crisis counseling services that include reducing stress and providing emotional support, assisting survivors in reviewing their disaster recovery options, promoting the use or development of healthy coping strategies, connecting survivors with appropriate people and agencies that can help them, and referrals to other disaster recovery programs.</p> <p>The grant is expected to help more than 260,000 people across the state.</p>
Link	https://gov.texas.gov/news/post/governor-abbott-hhsc-announce-5.8-million-for-disaster-crisis-counseling-services

Executive Order GA-19 and Reserving Hospital Capacity

Date	May 6, 2020
Summary	HHSC posted GL 20-1008, a guidance letter implementing Executive Order GA-19 related to hospital capacity. This letter informs licensed health care professionals of their responsibility to comply with existing emergency rules and instructs hospitals licensed under Chapter 241, Health and Safety Code, to reserve at least 15 percent of their hospital capacity for the treatment of COVID-19 patients.
Link	https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/facilities-regulation/memos/gl-20-1008-a.pdf

Texas Medical Board Emergency Rule

Date	April 30, 2020
Summary	<p>The Texas Medical Board (TMB) announced an emergency rule in response to Executive Order GA-19 related to hospital capacity. The emergency rule sets minimum standards for safe practice required of all physicians when engaging in an in-person patient encounter. The rule includes requirements related to masks, screenings, and posted notices.</p> <p>TMB provided this sample notice to help providers meet the signage requirement, and also posted this FAQ. The FAQ clarifies that the minimum standards apply regardless of practice settings, physicians may refuse to treat a patient who refuses to wear a mask, that masks may be removed if necessary for care (e.g., during surgery) and that masks are required even if the patient screened negative for COVID-19. The new rule, though effective immediately, is scheduled to be posted in the May 8 <i>Texas Register</i>.</p>
Link	Emergency rule: http://www.tmb.state.tx.us/dl/6765AAAE-C598-8E73-E59B-C27AA5AC19AA

Emergency Rules Concerning Chemical Dependency Treatment Services Via Telephone and Internet and Service Delivery Documentation Deadlines in Chemical Dependency Treatment Facilities (CDTFs)

Date	April 29, 2020
Summary	HHSC posted GL 20-3006, a guidance letter regarding adoption of emergency rules concerning chemical dependency treatment services via telephone and internet and service delivery documentation deadlines in Chemical Dependency Treatment Facilities (CDTFs), in response to COVID-19. These emergency rules permit CDTFs to temporarily provide treatment services through two-way, real-time internet or telephone communications to clients to reduce the risk of transmission of COVID-19, and temporarily extend treatment planning and service provision documentation deadlines, as counselor caseloads may have increased in intensive residential treatment programs in response to the COVID-19 pandemic.
Link	https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/facilities-regulation/memos/gl-20-3006.pdf

Emergency Rules Regarding Licensed Chemical Dependency Counselor Intern (LCDC-I) Service Provision and Supervision via Telephone and Internet

Date	April 29, 2020
Summary	HHSC posted GL 20-5001, a guidance letter regarding the adoption of emergency rules for Licensed Chemical Dependency Counselor Intern (LCDC-I) service provision and supervision via telephone and internet. The emergency rule temporarily permits counselor interns with more than 1,000 hours of supervised work experience to provide services in person or through two-way, real-time internet or telephone communications, and qualified intern supervisors to provide supervision through two-way, real-time internet or telephone communications to reduce the risk of COVID-19 transmission.
Link	https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/facilities-regulation/memos/gl-20-5001.pdf

COVID-19 In-Home Day Habilitation Information for Program Providers

Date	May 1, 2020
Summary	HHSC is extending its temporary guidance for in-home day habilitation information for program providers, because of COVID-19, through May 31, 2020. In addition, information has been added to clarify current guidance that allows day habilitation to be provided to a person in a residential setting that is not their home, along with required documentation.
Link	https://hhs.texas.gov/about-hhs/communications-events/news/2020/05/il20-19-covid-19-home-day-habilitation-information-program-providers

Date-of-Service Extension for Telemedicine (Physician-Delivered) and Telehealth (Non-Physician-Delivered) Services

Date	April 30, 2020
Summary	<p>As part of its continued response to COVID-19, the Children with Special Health Care Needs (CSHCN) Services Program will provide CSHCN reimbursement for previously identified telemedicine and telehealth services through May 31, 2020 dates of service. Effective dates remain as stated in the original notifications, which are listed below:</p> <ul style="list-style-type: none"> • Claims for telephone (audio only) medical services • Claims for telephone (audio only) behavioral health services • Rural health clinic (RHC) and federally qualified health clinic (FQHC) reimbursement for telemedicine (physician-delivered) and telehealth (non-physician delivered) services • Claims for telehealth service for occupational, physical, and speech therapy for the CSHCN services program <p>As part of its continued response to COVID-19, the Healthy Texas Women (HTW) and the Family Planning Program (FPP) will provide reimbursement for previously identified telemedicine and telehealth services through May 31, 2020 dates of service. Effective dates remain as stated in the original notifications, which are listed below:</p> <ul style="list-style-type: none"> • HTW and FPP claims for telemedicine (physician-delivered) and telephone (audio only) services • Additional telemedicine and telehealth services for HTW and FPP Providers

Links

CSHCN: http://www.tmhp.com/News_Items/2020/04-April/04-30-20%20Date-of-Service%20Extension%20for%20Telemedicine%20Physician-Non-Physician-Delivered.pdf

HTW and FPP: http://www.tmhp.com/News_Items/2020/04-April/04-30-20%20Date-of-Service%20Extension%20-HTW-FP%20for%20Telemedicine%20Physician-Non-Physician.pdf

HHSC COVID-19 Waiver Requests

Date	April 22, 2020
Summary	<p>HHSC submitted a COVID-19 1115 waiver request to the Centers for Medicare & Medicaid Services (CMS) on April 22, 2020. The request includes:</p> <ul style="list-style-type: none"> • Extending service authorizations, medical necessity/level of care determinations and individual service plans; • Extending timeframes for fair hearings and appeals; • Allowing for remote delivery (telehealth/phone) of state plan and 1115 waiver services required to provided face-to-face; • Waiving durable medical equipment signature requirements for physicians, providers, and Medicaid recipients; • Allowing reimbursement to pharmacies for administering flu vaccines, long-acting antipsychotics, and drugs used to treat substance use disorder or opioid dependency; • Suspending interest list releases for STAR+PLUS home and community-based services (HCBS) when face-to-face assessments have not yet been completed; and • Allowing youth aging out of STAR Kids to stay in STAR Kids rather than transitioning to STAR+PLUS. <p>All of these requests will be retro-active.</p> <p>HHSC submitted Appendix K COVID-19 requests for each 1915(c) waiver on April 28, 2020. 1915(c) waivers are home and community-based waivers that allow for individuals to receive services in the community instead of an institutional setting. The request includes:</p> <ul style="list-style-type: none"> • Extensions for re-assessments and re-evaluations of individuals who are enrolled in the waiver programs; • Extending appeal and fair hearing timeframes; • Allowing for remote delivery of certain waiver services and orientations for financial management services agencies;

- Waiving HCBS settings requirements that individuals are able to have visitors of their choosing at any time to minimize the spread of COVID-19;
- Allowances for HCBS residence requirements, such as allowing 4-person residences to serve up to 6 people;
- Allowing youth aging out of STAR Kids to stay in STAR Kids rather than transitioning to STAR+PLUS; and
- Requesting suspension of interest list releases in certain situations.

Link

<https://hhs.texas.gov/sites/default/files/documents/services/health/coronavirus-covid-19/mcs-covid-19-info-handout-april-30-2020.pdf>

Federal Updates**CMS Issued New Regulatory Waivers and Rule Changes**

Date	April 30, 2020
Summary	<p>CMS issued additional regulatory waivers and rule changes. These changes include making it easier for Medicare and Medicaid beneficiaries to get tested for COVID-19 and continuing efforts to further expand beneficiaries' access to telehealth services. Other regulatory changes include the following:</p> <ul style="list-style-type: none"> • Expansion of audio-only billing for Opioid Treatment Programs (OTPs): Previous guidance permitted therapy and counseling to take place via audio-only telehealth in OTPs. OTPs will now be able to do periodic assessments via audio-only calls. • Expansion of telehealth for partial hospitalization programs (PHP): In the context of hospital and outpatient partial hospitalization programs, individual psychotherapy, patient education, and group psychotherapy can now be billed as telehealth visits, including via audio-only encounters when audio/video technology is not available. All other PHP requirements remain unchanged, including that all services furnished under the PHP still require an order by a physician, must be supervised by a physician, and others. These encounters may take place with the patient in their own home.
Links	<p>Press release: https://www.cms.gov/newsroom/press-releases/trump-administration-issues-second-round-sweeping-changes-support-us-healthcare-system-during-covid</p> <p>Interim final rule: https://www.cms.gov/files/document/covid-medicare-and-medicaid-ifc2.pdf</p>

Telephone (Audio-only) Telehealth Services for Medicare during COVID-19

Date	May 1, 2020
Summary	CMS expanded telehealth coverage to allow most behavioral health services to be provided by telephone without video. Effective April 30, 2020, licensed behavioral health providers can now provide many of their typical services by audio-only telephones. These phone-only services will now be reimbursed for Medicare beneficiaries. Additionally, CMS has added more codes to the Medicare telehealth list. Phone-only services may be retroactive to March 1, 2020.
Links	https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf https://www.apaservices.org/practice/clinic/covid-19-telehealth-phone-only

Updated Frequently Asked Questions (FAQs) on Medicare Fee-for-Service (FFS) Billing

Date	May 1, 2020
Summary	<p>CMS posted updated FAQs on Medicare fee-for-service billing. Example updated hospital service FAQs includes the following:</p> <p>Question: During the COVID-19 public health emergency (PHE), can my hospital provide inpatient services at a site (temporary expansion site) that is not currently part of the hospital or even of another type of existing healthcare facility? For example, if local hospitals are almost at capacity during the emergency and the few beds remaining must be reserved for patients needing ventilators and critical care, will Medicare pay for non-critical care inpatient services provided directly by the hospital at a temporary expansion site, such as a repurposed school gymnasium or erected tent?</p> <p>Answer: During the COVID-19 PHE, CMS is allowing hospitals to provide inpatient hospital services in temporary expansion sites, which may include ambulatory surgical centers (ASCs), repurposed gymnasiums, erected tents, or other sites, to help address the urgent need to expand their care capacity and to develop COVID-19 specific treatment sites. If a hospital meets the CoPs in effect during the COVID-19 PHE while operating one or more temporary expansion sites, Medicare will pay for covered Medicare inpatient services provided at those sites as if they were provided at the permanent inpatient locations of the hospital. If services were provided by the hospital in another Medicare-participating facility, that facility would not bill Medicare for items and services provided by the hospital. The hospital is expected to be operating in a manner not inconsistent with its state's emergency preparedness or pandemic plan.</p>
Link	https://www.cms.gov/files/document/03092020-covid-19-faqs-508.pdf

New FAQs on Emergency Medical Treatment and Labor Act (EMTALA)

Date	April 30, 2020
Summary	CMS issued FAQs clarifying requirements and considerations for hospitals and other providers related to the Emergency Medical Treatment and Labor Act (EMTALA) during the COVID-19 pandemic. The FAQs address questions related to patient presentation to the emergency department, EMTALA applicability across facility types, qualified medical professionals, medical screening exams, patient transfer and stabilization, telehealth, and other topics.
Link	https://www.cms.gov/medicareprovider-enrollment-and-certificationsurvey/certificationgeninfo/policy-and-memos-states-and/emergency-medical-treatment-and-labor-act-emtala-requirements-and-implications-related-covid19

Quality Payment Program Update

Date	April 29, 2020
Summary	CMS is implementing multiple flexibilities for the Quality Payment Program (QPP) in response to the COVID-19 pandemic. On April 29, 2020, CMS updated their QPP COVID-19 response document, adding information about qualified clinical data registry (QCDR) measure testing and data collection delay by one year.
Link	https://qpp-cm-prod-content.s3.amazonaws.com/uploads/966/QPP%20COVID-19%20Response%20Fact%20Sheet.pdf

Updated Guidance and Resources for Working Remotely

Date	May 1, 2020
Summary	The Department of Homeland Security and the Cybersecurity and Infrastructure Security Agency have updated their telework guidance to include new guidance on telework best practices, videoconferencing tips, guidance for securing videoconferencing, and specific cybersecurity recommendations for critical infrastructure and federal agencies using video conferencing. They provided the resources to assist organizations that are working remotely.
Link	https://www.cisa.gov/telework

CDC Symptom-Based Strategy for Discontinuing Isolation

Date	May 3, 2020
Summary	The Centers for Disease Control and Prevention (CDC) posted new guidance for using a symptom-based strategy when determining whether to discontinue isolation. The guidance applies to situations in which continued testing is impractical and is based on time-since-illness-onset and time-since-recovery to establish the end of isolation. For the general public, people who are ill should stay in isolation for at least 10 days after the onset of illness and need to wait at least 72 hours after the resolution of symptoms before ending isolation.
Link	https://www.cdc.gov/coronavirus/2019-ncov/community/strategy-discontinue-isolation.html?deliveryName=USCDC_2067-DM27395

CDC Contact Tracing Standards

Summary	The CDC issued preliminary standards for digital contact tracing for local health departments. The standards relate to the development of forthcoming contact tracing apps that can help slow the spread of COVID-19.
Link	https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/prelim-eval-criteria-digital-contact-tracing.pdf

Uninsured Program Portal Resources

Summary	The Health Resources and Services Administration (HRSA) hosted webinars for health care providers on the agency's COVID-19 Uninsured Program Portal. During the webinars, HRSA and United Health Group, the portal administrator, reviewed the process for submitting claims through the portal. They also announced the release of a number of new resources including an interactive user guide , a provider checklist for claims reimbursement , and guides on Optum Pay™ direct deposit enrollment and alternative payment routing options .
Link	Portal: https://coviduninsuredclaim.linkhealth.com/patient-details.html

Federal Relief Fund Updates

Updated Coronavirus Relief Fund FAQs

Date	May 4, 2020
Summary	The Department of Treasury posted updated FAQs related to the Coronavirus Relief Fund for state, territorial, local, and tribal governments. The Coronavirus Relief fund is expected to provide \$11.2 billion to state and local governments in Texas.
Link	https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf

Additional Paycheck Protection Program (PPP) Guidance

Date	May 3, 2020
Summary	The U.S. Small Business Administration (SBA) issued additional guidance for the Paycheck Protection Program (PPP). This program makes loan opportunities of up to \$10 million available to organizations with fewer than 500 total employees or that meet other criteria. These loans may be forgiven if at least 75% of the loan is used for payroll costs, among other terms.
Link	https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf

Correspondence Outlining Concerns Regarding the Provider Relief Fund

Summary	<p>Multiple groups have recently expressed concerns regarding the distributions, to date, from the Provider Relief Fund established under the CARES Act. The U.S. Department of Health and Human Services (HHS) set aside \$50 billion from the Provider Relief Fund as a general allocation for Medicare providers. This methodology does not adequately account for providers who serve a higher percentage of patients enrolled in Medicaid or for mental health and substance use treatment providers in Texas who rely more heavily on block grants from the Substance Abuse and Mental Health Services Administration (SAMHSA).</p> <p>On April 27, 2020, MMHPI joined a group of national mental health and substance use disorder (SUD) policy organizations in crafting and sending a letter to HHS Secretary Alex Azar, asking that HHS prioritize mental health and substance use (MHSUD) providers when distributing \$75 billion recently added to the Provider Relief Fund. The letter urges HHS to prioritize MHSUD providers in the next round of distributions by looking at Medicaid payments, which are more commonly billed for</p>
----------------	---

mental health and SUD services, and working with SAMHSA to distribute funding to states.

On April 30, 2020, the Medicaid and CHIP Payment Access Commission (MACPAC) sent a letter to HHS Secretary Azar outlining concerns regarding the CARES Act Provider Relief Fund. Specifically, MACPAC noted concerns related to the disproportionate share of funding allocated to hospitals who serve a high share of Medicaid and low-income patients, certain providers being excluded from the distribution due to not receiving Medicare fee-for-service revenue, and the lack of transparency on payment amounts and methodology.

On May 4, 2020, Senators John Cornyn and Debbie Stabenow sent a bipartisan letter to HHS Secretary Azar and CMS Administrator Seema Verma expressing concern that MHSUD providers are left behind in the initial \$100 billion in planned allocations from the Provider Relief Fund. Senator Cornyn and Stabenow, joined by 24 additional senators, urged HHS to ensure that all future distributions recognize the needs of MHSUD providers. Senator Cornyn then took to the Senate floor on May 5, 2020 to discuss the need to address the pandemic's impact on mental health and highlight the letter sent to Secretary Azar and Administrator Verma. These efforts would help address issues identified in the April 27, 2020 letter from MMHPI and national mental health and SUD policy organizations.

Links

<https://www.nami.org/getattachment/About-NAMI/NAMI-News/2020/NAMI-Asks-Administration-to-Prioritize-Mental-Heal/2020LetterBHCare.pdf?lang=en-US>

<https://www.macpac.gov/wp-content/uploads/2020/04/Letter-to-the-HHS-Secretary-Following-Up-on-CARES-Act-Distribution.pdf>

<https://www.cornyn.senate.gov/content/news/cornyn-cannot-ignore-mental-health-impact-coronavirus>

Targeted Allocations from Provider Relief Fund

Summary

HHS announced the following distributions for targeted allocations from the Provider Relief Fund:

- HHS has allocated \$10 billion in the Provider Relief Fund as a targeted distribution to hospitals in areas that have been particularly impacted by the COVID-19 pandemic. Hospitals must have applied for these funds, via an authentication portal, before April 25, 2020 at 2 p.m. CST. HHS is distributing \$10 billion to 395 hospitals who provided inpatient care for 100 or more COVID-19 patients through April 10, 2020 and will distribute an additional \$2 billion to these hospitals based on their Medicare and

	<p>Medicaid disproportionate share and uncompensated care payments. Only two Texas hospitals will receive payment, totaling \$27,394,611.</p> <ul style="list-style-type: none"> • HHS has allocated \$10 billion in the Provider Relief Fund as a targeted distribution to rural hospitals, rural health clinics, and community health centers located in rural areas. These funds will be distributed based on operating expenses, using a methodology that distributes payments proportionately to each facility and clinic. 393 providers in Texas will receive \$634,362,996 in total payments, the largest allocation for any state.
Link	https://www.hhs.gov/sites/default/files/covid-19-high-impact-allocation.pdf#page=5

Mental Health Burnout Study among Health Care Providers

Summary	<p>The National Institutes of Mental Health is launching a study about mental health burnout among health care providers as a result of the COVID-19 pandemic. Frontline health care workers may participate and get more information at the link below.</p>
Link	https://covidhcwstudy.ctss.nih.gov/

Policing in a Pandemic: A Virtual Peer Support Series

The Meadows Mental Health Policy Institute (MMHPI) and Caruth Police Institute (CPI) recognize that the COVID-19 pandemic represents one of the biggest policing challenges in modern times. At a time when the public is taking measures to protect family and loved ones from exposure to the Coronavirus, first responders face the uncertainty of community exposure and in turn the fear of exposing their loved ones. In addition, first responders are facing increased workloads as they adapt to policing and emergency response models in a pandemic. This compounds the dynamic nature of first responder stress and fatigue at a time health, wellness, and resiliency are more critical than ever. To provide an immediate resource to first responders, we have established the *Policing in Pandemic Virtual Peer Networking Series*. MMHPI and CPI will host weekly interactive online events including nationally recognized peer specialists, health and wellness experts, and first responder wellness providers in a digital platform that provides anonymity to officers to join online, share experiences, hear from their peers, and get real time resources to address the impact of this new normal.

May 14: Nick Daughtery, founder of Serve and Protect Financial, will discuss overcoming the financial impact of COVID for law enforcement officers.

Please join us at 6:00 PM CST at: <https://zoom.us/j/806383664>.