



COVID-19: Top Eight Telemedicine Updates for Mental Health and Substance Use Disorder Providers

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The COVID-19 outbreak has led to several changes with respect to the delivery of mental health and substance use disorder treatment via telemedicine or telehealth. During the crisis, face-to-face services are limited, and telemedicine is helping to fill the gaps for those in need of mental health and substance use disorder support. Here is a rundown of the top eight things providers in this space should know about these changes:

- The Centers for Medicare and Medicaid Services released [guidance](#) that allows patients to be seen via live video conferencing in their homes without having to travel to an originating site for Medicare [telehealth](#) encounters (regardless of the geographic location). Medicare will also allow virtual check-ins to be performed over the phone.
- The Department of Health and Human Services' (HHS) Office of Civil Rights has [indicated](#) it will exercise enforcement discretion and waive penalties for certain HIPAA violations during the COVID-19 crisis for health care providers that utilize FaceTime or Skype video conferencing services (which normally would not meet applicable requirements for security and privacy).
- HHS's Office of Inspector General (OIG) has [announced](#) it will now allow health care providers the discretion to reduce or waive copays and other cost-sharing measures for telehealth visits. Ordinarily, health care providers that routinely reduce or waive copays and deductibles for federal health care programs would potentially be subject to challenge under federal anti-kickback laws. However, the OIG made clear that physicians and practitioners do not risk enforcement action if they waive any cost-sharing for telehealth visits during the COVID-19 public health emergency.

- The Drug Enforcement Administration has indicated that, in certain limited circumstances, it has temporarily suspended the requirement that a provider conduct an initial, in-person examination of a patient to establish a doctor-patient relationship before electronically [prescribing controlled substances](#).
- The Substance Abuse and Mental Health Services Administration has also issued [guidance](#) that provides potential flexibility for disclosure of patient identifying information for substance use treatment programs. The guidance provides that the prohibition on disclosing patient identifying information in substance use disorder records without a patient's written consent does not apply when a medical emergency exists.
- The American Psychiatric Association has considerable resources on its [website](#) for those that wish to provide telemedicine services for patients with mental illness and substance use issues, including resources related to commercial payers providing such services.
- State Medicaid agencies have expanded reimbursement for telemedicine services for mental health and substance use patients. In Ohio, for example, Governor DeWine signed an [executive order](#) to expand and enhance telehealth options for Ohio Medicaid recipients. The executive order allows patients to connect with their doctors using everyday communications tools including emails, faxes, and landline telephone services.
- Commercial payors have increased coverage and reimbursement options while eliminating co-pays and deductibles.

The COVID-19 pandemic has increased the need for mental health and substance use disorder services, and the foregoing list shows the steps taken thus far to enhance access to care virtually or telephonically. Providers of mental health and substance use disorder services are advised to carefully monitor these changes often.

For more information, please reach out to the authors of this article. You can also visit our [Health Law Matters blog](#) for more insight into

legal issues impacting the health care industry.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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