



Legislative Council Staff

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Memorandum

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TO: Interested Persons

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SUBJECT: Expansion of Telehealth Services in Response to COVID-19

Summary

This memorandum provides an overview of how the spread of the coronavirus and associated disease (COVID-19) has prompted insurers, federal and state health organizations, and behavioral and mental health organizations to adopt policies that support and encourage the use of telehealth. Telehealth enables long-distance health care and other health-related services to occur with the use of telecommunication technology. Telehealth can assist in the provision of health services as health organizations and governments encourage social distancing and advise limiting non-urgent visits to health care providers to slow the spread of COVID-19.

Telehealth Expansion by Insurers and Health Care Providers

Insurers and health care organizations, both public and private, made changes to their telehealth policies in an effort to continue the provision of health services, while also encouraging social distancing to limit the spread of COVID-19. In addition, the U.S. Department of Health and Human Services (HHS) announced in mid-March that it will waive potential Health Insurance Portability and Accountability Act (HIPAA) penalties for good faith use of telehealth during the nationwide public health emergency due to COVID-19, even though some technologies and the manner in which they are used by HIPAA-covered health care providers may not fully comply with the requirements of the HIPAA rules.

Private insurance. The Colorado Division of Insurance issued guidance on March 9, 2020, directing insurance carriers regulated by Colorado law to conduct an outreach and education campaign to remind individuals of their telehealth coverage options. In addition, the division directed insurance carriers to provide telehealth services to cover COVID-19-related in-network telehealth services at no cost share, including co-pays, deductibles, and coinsurance that would normally apply to the telehealth visit. The Insurance Commissioner issued an emergency regulation formalizing this directive.

Medicaid. The Colorado Department of Health Care Policy and Financing has temporarily expanded the use of telemedicine services to facilitate the safe delivery of health care services to Health First Colorado members during the COVID-19 state of emergency. These expanded services include:

Telephone and live chat modalities. Services that are allowed to be provided by telemedicine under the existing policy will no longer be restricted to an interactive audiovisual modality only. Providers may deliver the allowable telemedicine services by telephone or via live chat. All other general requirements for telemedicine services, such as documentation and meeting the same standard of care, still need to be met.

Federally qualified health centers, rural health clinics, and the Indian Health Service. For the duration of the COVID-19 state of emergency, Health First Colorado is allowing telemedicine visits to qualify as billable encounters for federally qualified health centers (FQHCs), rural health clinics (RHCs), and the Indian Health Service. Services allowed under telemedicine may be provided via telephone, live chat, or interactive audio-visual modality for these provider types.

Physical therapy, occupational therapy, home health, hospice, and pediatric behavioral health providers. Health First Colorado has expanded the list of providers eligible to deliver telemedicine services to include physical therapists, occupational therapists, hospice, home health providers, and pediatric behavioral health providers. Services delivered by these provider types require an interactive audio-visual connection to the member; they cannot be provided using telephone only or live chat.

Health First Colorado providers may find additional information [here](#).¹

Medicare. The federal government has expanded Medicare telehealth coverage to allow beneficiaries to receive a wider range of health care services from their doctors without having to travel to a healthcare facility. Beginning on March 6, 2020, Medicare will temporarily pay for office, hospital, and other visits furnished via telehealth, including in a patient's place of residence. A range of providers, such as doctors, nurse practitioners, clinical psychologists, and licensed clinical social workers, will be able to offer telehealth to their patients. Additionally, the HHS Office of Inspector General is providing flexibility for health care providers to reduce or waive cost-sharing for telehealth visits paid by federal health care programs. Medicare providers and members may find additional information [here](#).²

Telehealth Expansion for Mental and Behavioral Health

Federal and state agencies have made further changes to support the use of telehealth for mental and behavioral health care services. Federal guidance addressing administering and distributing medication-assisted treatments (MAT) for persons being treated for an opioid use disorder has also been adjusted. These changes seek to continue the provision of these services while supporting social distancing to slow the spread of COVID-19.

¹<https://www.colorado.gov/pacific/hcpf/provider-telemedicine>

²<https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

Federal Drug Enforcement Agency (DEA). On January 31, 2020, the Secretary of HHS declared a public health emergency. A public health emergency allows for an exception to the requirement that a prescription for a controlled substance be predicated on an in-person medical exam. During the public health emergency, DEA registered practitioners may prescribe controlled substances in the absence of an in-person exam as long as all of the following criteria are met:

- the prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his or her professional practice;
- the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and
- the practitioner is acting in accordance with applicable federal and state law.

Substance Abuse and Mental Health Services Administration (SAMHSA). The federal SAMHSA, a branch of HHS, expanded its guidance for opioid treatment programs. All states are permitted to request an exception that allows stable patients who are being treated for an opioid use disorder to receive a 28-day supply of take-home opioid addiction treatment medication and less stable patients to receive a 14-day supply of take-home opioid addiction treatment medication. SAMHSA has also recommended that providers utilize telehealth as well as telephonic services. These services can be used to provide initial evaluations, including evaluations for consideration of the use of MAT and to implement individual or group therapies to treat mental and substance use disorders. More information about SAMHSA's response to COVID-19 may be found [here](#).³

Office of Behavioral Health (OBH). The OBH in the Colorado Department of Human Services issued a blanket waiver on March 19, 2020, to allow all alcohol and drug driving safety education or treatment programs to use telehealth in lieu of face-to-face meetings. These programs can begin using telehealth services immediately without submitting a waiver until July 1, 2020. OBH has also stated that during the state of emergency issued by Governor Polis, criminal justice and Children and Youth Mental Health Treatment Act programs can deliver services without meeting the in-person, face-to-face requirement if face-to-face services put patients and staff at considerable risk. Additional information about OBH's response to COVID-19, may be found [here](#).⁴

³<https://www.samhsa.gov/coronavirus>

⁴<https://www.colorado.gov/pacific/cdhs/article/covid-19-behavioral-health-info>