

MEMORANDUM

TO: (1) All providers enrolled in the Medical Assistance (MA) Program who render behavioral health services in the fee-for-service (FFS) or managed care delivery system and;
(2) Primary Contractors and Behavioral Health Managed Care Organizations (BH-MCOs) in the HealthChoices (HC) Program

FROM: Kristen Houser *Kristen Houser*
Deputy Secretary
Office of Mental Health and Substance Abuse Services (OMHSAS)

RE: Behavioral Health Telehealth Frequently Asked Questions

DATE: October 29, 2021

COVID-19 FREQUENTLY ASKED QUESTIONS (FAQs):

1. **Question:** Which Behavioral Health Services are covered by OMHSAS-21-09?

OMHSAS Response: [OMHSAS-21-09 Guidelines for the Delivery of Behavioral Health Services through Telehealth](#) (OMHSAS-21-09) covers all “providers enrolled in the Medical Assistance (MA) Program who render behavioral health services in the fee-for-service (FFS) or managed care delivery system.” The bulletin does not specifically exclude any state-plan or in-lieu of service.

2. **Question:** Are providers required to continue offering services in-person when OMHSAS-21-09 is effective on 9/30/21?

OMHSAS Response: Yes. Providers agencies may not make an administrative decision to eliminate the availability of services delivered in-person. It is critical to ensure sufficient office and clinic hours are available to meet the needs of individuals receiving services who either do not choose or cannot use telehealth and for when it is clinically inappropriate to deliver services through telehealth or audio-only. As such, there should be a balance of service delivery modalities based on safety and the needs of individuals receiving services, staff providing services and overall community needs.

COMMENTS AND QUESTIONS REGARDING THIS MEMORANDUM SHOULD BE DIRECTED TO:
Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning & Program Development, P.O. Box 2675, Harrisburg, PA 17105. E-mail: RA-PWTBHS@pa.gov

3. **Question:** Do providers still need to complete the OMHSAS-20-02 Attachment B Telehealth Attestation Form?

OMHSAS Response: No. The issuance of OMHSAS-21-09 made OMHSAS-20-02 obsolete. OMHSAS-21-09 does not require an attestation form.

4. **Question:** Can the OMHSAS-21-09 Exception Request for Telehealth Form (attachment b) be submitted to OMHSAS by provider agencies?

OMHSAS Response: The OMHSAS-21-09 Exception Request for Telehealth Form (attachment b) can only be submitted to OMHSAS by HealthChoices Primary Contractors. Providers that do not maintain a physical location in Pennsylvania within 60 minutes or 45 miles of the area served and who seek to provide services using telehealth, should contact the HealthChoices Primary Contractor for the geographic service area they would like to deliver services.

5. **Question:** Can the OMHSAS-21-09 Exception Request for Telehealth Form (attachment b) be submitted to request exceptions to telehealth policy other than the 45 mile/60 minute guidance for in-person access?

OMHSAS Response: The OMHSAS-21-09 Exception Request for Telehealth Form (attachment b) is specific to the 45 mile/60 minute guidance for in-person access.

6. **Question:** Is there a list of HealthChoices Primary Contractor contacts for providers interested in requesting an exception?

OMHSAS Response: Yes, providers can access the list at the link below by selecting the file named "Pennsylvania Medicaid Managed Care Organization Directory".

<https://www.dhs.pa.gov/providers/Providers/Pages/Managed-Care-Information.aspx>

7. **Question:** Does my agency/facility need a waiver to continue audio-only service delivery when an individual served does not have access to video capability?

OMHSAS Response: Providers of Outpatient Psychiatric Services ([55 Pa. Code § 1153.14](#)) or Outpatient Drug and Alcohol Clinic Services ([55 Pa. Code § 1223.14](#)) require a waiver in order to receive Medicaid payment for services delivered through audio-only. Other types of providers do not require a regulatory waiver for audio-only service delivery, but should follow the OMHSAS-21-09 guidance on the use of audio-only.

8. **Question:** What provider types are covered under 55 Pa. Code 1153 and need to request a waiver for audio-only service delivery?

OMHSAS Response: [55 Pa. Code 1153.11](#) includes licensed “psychiatric outpatient clinics, partial hospitalization outpatient facilities and MMHT [Mobile Mental Health Treatment]” providers. [55 Pa. Code 1153.14](#) specifically indicates that “Payment will not be made for the following types of services regardless of where or to whom they are provided: (1) A covered psychiatric outpatient clinic, MMHT or partial hospitalization outpatient service conducted over the telephone.”

9. **Question:** Do private independent practitioners and group practices that bill Medicaid based on their individual practitioner license(s) from the Pennsylvania Department of State (DOS) rather than as a licensed clinic need to submit a waiver to continue audio-only service delivery after 9/30/21?

OMHSAS Response: No, private independent practitioners and group practices that are enrolled in Medicaid and billing under their individual practitioner license(s) from DOS rather than as a part of a licensed clinic do not require a waiver for the delivery of services audio-only as they are not providing Outpatient Psychiatric Services or Outpatient Drug and Alcohol Clinic services.

10. Question: Will documentation of verbal consent for treatment, service verification, and acknowledgement of receipt of treatment or service plan(s) in the medical record continue to meet the requirements for a signature on encounter forms and service/treatment plans as has been permitted during the disaster emergency declaration?

OMHSAS Response: From OMHSAS-21-09 “Signatures for consent to treatment, service verification, and acknowledgement of receipt of treatment or service plan(s) may include hand-written or electronic signatures. Consistent with Act 69 of 1999 Electronic Transactions Act, an electronic signature is an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. In situations where signatures cannot be obtained from the individual served or their legal guardian, as applicable, documentation of verbal consent in the medical record meets the requirement for a signature except where inconsistent with Pennsylvania regulations.”

11. Question: If my agency/facility is not requesting exception or a regulatory waiver, do we need to submit any documentation to OMHSAS in order to deliver services through telehealth?

OMHSAS Response: As long as the services delivered are within the scope of OMHSAS-21-09, no documentation needs to be submitted to OMSHAS to deliver services through telehealth except in the limited circumstances where exception requests or regulatory waiver requests are required.

12. Question: If we use a telehealth platform without video on, would that count as audio-only service delivery or does audio-only specifically refer to telephone calls?

OMHSAS Response: From OMHSAS-21-09 “Audio-only refers to the delivery of behavioral health services at a distance using real-time, two-way interactive audio only transmission.” There is no distinction made based on the underlying technology used to facilitate the audio-only communication. If there is not a real-time video component of the communication, it is considered audio-only service delivery.

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13. Question: OMHSAS-21-09 requires Health Insurance Portability and Accountability Act (HIPAA) compliance. Does this requirement take into account the US Health and Human Services Office of Civil Rights (HHS OCR) Compliance Notification of [Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#) or is OMHSAS requiring full compliance with HIPAA before the end of the federal Public Health Emergency?

OMHSAS Response: OMHSAS recognizes the current enforcement discretion from HHS OCR. The OMHSAS-21-09 requirement for telehealth technology to “comply with the Health Insurance Portability and Accountability Act” is intended to be inclusive of current and ongoing HHS OCR guidance on HIPAA enforcement.

14. Question: Can providers use text messaging to communicate with individuals served as a part of telehealth?

OMHSAS Response: Text messaging is not included in either telehealth service delivery or audio-only service delivery. The Pennsylvania MA program does not pay for services delivered through text messaging or other messaging technologies.

15. Question: Does OMHSAS have a preferred platform for the provision of services via telehealth (ex: Doxy.me, Skype, etc.)?

OMHSAS Response: OMHSAS is not recommending any specific platforms.

16. Question: OMHSAS-21-09 Purpose #3 allows unlicensed mental health staff working through a licensed provider agency to deliver services through telehealth. Is the list of mental health staff included in #3, “unlicensed master’s level therapists, mental health targeted case managers, mental health certified peer specialists, certified recovery specialists, and drug and alcohol counselors (as defined in 28 Pa. Code §704.7(b))” intended as examples or are other unlicensed mental health staff not specified also permitted to deliver services through telehealth?

OMHSAS Response: The list in OMHSAS-21-09 Purpose #3 is not intended to be an exhaustive list of every possible job title/degree type that unlicensed mental health staff working in licensed provider agencies may have. Where it is clinically appropriate to do so, other mental health staff may also deliver services through telehealth under a licensed provider agency.

17. Question: Are there any limitations on the types of licensed mental health practitioners who can deliver services through telehealth?

OMHSAS Response: OMHSAS-21-09 does not limit the type of licensed practitioners that may deliver services through telehealth. However, licensed practitioners should also ensure they are within their licensed scope of practice as defined by the appropriate Pennsylvania Department of State Licensing Board.

18. Question: Is OMHSAS able to address the telehealth limitations of Physician’s Assistants Scope of Practice?

OMHSAS Response: No. Please consult with the Pennsylvania Department of State Licensing Board.

19. Question: Under OMHSAS-21-09, can the staff of licensed provider agencies continue to deliver services from alternate locations to the licensed facility, such as a home office?

OMHSAS Response: Yes. Provider agencies should have policies in place for the delivering of services through telehealth including locations outside of the licensed facility, such as a home office, that ensure standards of care and privacy maintained.

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20. Question: Does OMHSAS-21-09 apply to Federally Qualified Health Centers (FQHCs)?

OMHSAS Response: When billing the Pennsylvania Medicaid Program for behavioral health services, FQHCs can deliver services through telehealth following the guidance of OMHSAS-21-09. However, the FQHC must still follow their HRSA-approved Scope of Project and any other applicable federal guidance for FQHCs. In addition, it is important to note that practitioner types that are not listed in the State Plan Attachment 3.1A/3.1B under FQHCs cannot be paid under the PPS rate.

21. Question: Where is the 45 mile/60 minute access to in-person service measured from? If a practitioner is working from their personal residence, can it be measured from that location or does it have to be from the licensed agency/facility location?

OMHSAS Response: The 45 mile/60 minute access to in-person service guidance is measured from the location of the individual receiving services to the closest agency/facility location where the individual would be able to receive the same service that is being delivered through telehealth.

22. Question: Can a provider allow some of its practitioners to deliver services only through telehealth?

OMHSAS Response: Yes, as long as the provider organization has sufficient staff to provide services in-person when it is requested or clinically required.

23. Question: Does OMHSAS-21-09 apply to supervision requirements for behavioral health services?

OMHSAS Response: Telehealth Service Delivery and Audio-only Service Delivery specifically refer to the delivery of services. Guidance for telehealth and audio-only service delivery do not apply to supervision. OMHSAS-21-09 covers Medicaid payment for the delivery of services only, it does not include guidance on supervision.

24. Question: In OMHSAS-21-09 Attachment A, it states “When group services are being delivered to youth 14 years old or older, any youth that may need a caregiver during the provision of services should have a caregiver available.” What if a child needs a caregiver present but does not consent to have one present?

OMHSAS Response: [Act 65 of 2020](#) allows a minor who is 14 years of age or older, the minor's parent or legal guardian to consent to mental health treatment, including determining who can participate during the provision of such services. If a minor who is 14 years of age or older does not consent to the involvement of a caregiver during group services, consent may be obtained from the minor's parent or legal guardian. One person's consent cannot abrogate another's consent.

25. Question: Is the 25% telephone standard in the Certified Peer Specialist handbook still relevant, or does the issuance of OMHSAS-21-09 allow audio-only service delivery without a cap on the percentage of service time?

OMHSAS Response: Peer Support Services provided using audio-only service delivery continue to be limited to 25% or less of total service time provided per individual per calendar year for the purpose of assisting the individual in meeting the goals in the Individual Service Plan. Audio-only service delivery in excess of 25% can only be used in accordance with the guidance in OMHSAS-21-09 “when the individual served does not have access to video capability or for an urgent medical situation.”

26. Question: I would like to make sure I get future updates from OMHSAS on telehealth. How can I do that?

OMHSAS Response: Announcements related to telehealth will be sent out on the OMHSAS Listserv. You can sign up for the listserv or manage your subscription to the listserv here:

http://listserv.dpw.state.pa.us/Scripts/wa.exe?SUBED1=omhsas_general_listserv&A=1

In addition, OMHSAS maintains a webpage with information about telehealth. It is available here: <https://www.dhs.pa.gov/Services/Mental-Health-In-PA/Pages/OMHSAS-Behavioral-Health-Telehealth.aspx>

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