

April 28, 2020

COVID-19: Updates and Resources for Healthcare Organizations

As the coronavirus pandemic continues, New York City healthcare organizations and their staff are working on the front lines to provide essential services during a time of public health crisis. Below are selected healthcare updates and a list of resources from federal and New York State and City government agencies relevant to healthcare nonprofits serving NYC communities.

Lawyers Alliance is grateful to Ari Markenson, Partner at Winston & Strawn LLP, for his assistance in preparing this guidance document for healthcare nonprofits responding to COVID-19.

COVID-19 Healthcare Law Updates

Telehealth

In light of the COVID-19 emergency, NYS has further expanded Medicaid coverage of telehealth services, which had previously been expanded in 2019. **Telehealth** is defined as the use of electronic information and communication technologies to deliver health care to patients at a distance. During the COVID-19 emergency, this definition of telehealth now includes **telephone conversations**. Medicaid-covered services provided via telehealth include assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a Medicaid member.

Providers are responsible for ensuring that telehealth services are clinically appropriate and appropriately documented for purposes of reimbursement. Telehealth services must continue to be in compliance with applicable laws and regulations governing confidentiality, privacy and consent.

For more information, please see the “Telehealth” topic and relevant government agency guidance under the Resources section of this document below.

HIPAA

Organizations subject to the **Health Insurance Portability and Accountability Act of 1996 (HIPAA)** must continue to adhere to the existing HIPAA rules governing privacy, security and breach notifications. However, during the COVID-19 emergency, the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) will exercise its enforcement discretion and will not impose penalties for noncompliance with regulatory requirements for the good faith provision of telehealth services by covered health care providers using remote technologies during an emergency.

This exercise of discretion applies to covered services of telehealth provided for any reason and not only to telehealth services related to the diagnosis and treatment of health conditions related to COVID-19. During the emergency, the exercise of discretion extends to any remote audio/video communication technologies used by providers that are available to patients as long as they are not public-facing (even if such technologies do not fully comply with HIPAA requirements).

For more information, please see the “HIPAA” topic under the Resources section of this document below.

COVID-19 Resources: By Healthcare Topic

Telehealth

- **New York State Department of Health (DOH)**
 - [Medicaid Update Special Edition: Comprehensive Telehealth Guidance \(updated frequently\)](#)
 - [Frequently Asked Questions \(FAQs\) on Medicaid Telehealth Guidance during the Coronavirus Disease 2019 \(COVID-19\) State of Emergency \(3/30/20\)](#)
- **New York State Office of Mental Health (OMH)**
 - [OMH COVID-19 Consolidated Telemental Health Guidance \(3/30/20\)](#)
- **New York State Office of Addiction Services and Supports (OASAS)**
 - [Guidance on Utilizing Telepractice by OASAS Providers \(3/23/20\)](#)
- **Centers for Medicare and Medicaid Services (CMS)**
 - [Newsroom: Medicare Telemedicine Health Care Provider Fact Sheet \(3/17/20\)](#)

HIPAA

- **U.S Department of Health and Human Services (HHS)**
 - [HIPAA, Civil Rights and Covid-19](#) (general information)
 - [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#)
 - [FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency](#)
 - [COVID-19 and HIPAA: Disclosures to law enforcement, paramedics, and other first responders and public health authorities](#)
 - [COVID-19 & HIPAA Bulletin: Limited Waiver of HIPAA Sanctions and Penalties During a Nationwide Public Health Emergency](#)

COVID-19 Resources: By Government Agency

Federal Agencies

- **Centers for Disease Control and Prevention (CDC)**
 - Healthcare professionals: [Information for Healthcare Professionals](#)
 - Healthcare facilities: [Information for Healthcare Facilities](#)
 - Homeless service providers: [Interim guidance for homeless service providers to plan and respond to coronavirus disease 2019 \(COVID-19\)](#)
 - Community-based organizations and faith-based organizations: [Interim Guidance for Administrators and Leaders of Community- and Faith-Based Organizations to Plan, Prepare, and Respond to Coronavirus Disease 2019](#)

- **Centers for Medicare and Medicaid Services (CMS)**
 - [CMS – 1135 Regulatory Waivers – New York](#) (describing waiver flexibilities for NYS Medicaid and Medicare reimbursements) (3/26/20)
 - [CMS – Blanket Regulatory Waivers](#) (describing emergency declaration blanket waivers for providers) (effective 3/1/20)
 - Medicaid providers/suppliers: [Fact Sheet: Expansion of the Accelerated and Advance Payments Program for Providers and Suppliers during COVID-19 Emergency](#)
 - Home health agencies: [Guidance for Infection Control and Prevention Concerning Coronavirus Disease 2019 \(COVID-19\) in Home Health Agencies \(HHAs\)](#)
 - Healthcare facilities: [Information for Healthcare Facilities Concerning 2019 Novel Coronavirus Illness \(2019-nCoV\)](#) (2/6/20)
- **U.S. Department of Housing and Urban Development (HUD)**
 - Homeless service providers: [COVID-19 Infectious Disease Prevention and Response](#)
- **Occupational Health and Safety Administration (OSHA)**
 - [Control and prevention](#)
- **U.S. Department of Health & Human Services (HHS)**
 - **Health Resources & Services Administration (HRSA)**
 - Federally qualified health centers (FQHCs): [COVID-19 Resources](#)
 - **Office for Civil Rights (OCR)**
 - [HIPAA, Civil Rights and Covid-19](#)
 - **Substance Abuse and Mental Health Services Administration (SAMHSA)**
 - [Coronavirus \(COVID-19\) guidance and resources](#)
 - [COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance](#)
 - **Office of the Assistant Secretary for Preparedness and Response (ASPR)**
 - [COVID-19: 2019 Novel Coronavirus Disease](#) (resources)

New York State Agencies

- **NYS Department of Health (NYSDOH)**
 - [Covid-19 Information for Healthcare Providers](#) (provides up-to-date general information for NYS healthcare providers, including health advisories, webinars, and guidance)
 - [COVID-19 Guidance for Medicaid Providers \(updated frequently\)](#)
 - [Guidance for 1915\(c\) HCBS Children’s Waiver for Children’s Health Homes and Children, Youth Evaluation Services \(C–YES\), HCBS Providers, and MMCP/HIV SNP](#) (3/29/20)
 - [COVID–19 Telephonic and Telehealth Services Available to Statewide Adult Day Health Care Program Services](#) (3/28/20)
 - [COVID-19 Guidance for Home Health Care Agencies and Hospice Providers](#) (3/22/20) (supersedes previous DOH guidance issued 3/14/2020, DAL: DHCBS 20-08)

- [Guidance for Designated Children and Family Treatment and Support Services Providers \(3/19/20\)](#)
- [Guidance for the Authorization of Community–Based, Long–Term Services and Supports Covered by Medicaid in response to COVID–19 \(3/18/20\)](#)
- [Guidance for Health Homes Serving Adults, Health Homes Serving Children/Youth, and Care Coordination Organization/Health Homes \(CCO/HH\) \(3/14/20\)](#)
- **NYS Office of Mental Health (NYSOMH)**
 - [Guidance on COVID-19](#)
 - [NYS OMH COVID-19 Supportive Housing FAQs \(3/30/20\)](#)
- **NYS Office of Addiction Services and Supports (OASAS)**
 - [COVID-19 News](#)
- **NYS Office of Temporary and Disability Assistance (OTDA)**
 - [COVID-19 Provider Resources](#)
 - [Interim Guidance for Operators of Facilities Providing Housing to Individuals who are Homeless and Supportive Housing, or Organizations Making Referrals to Such Facilities \(3/31/20\)](#)
 - [Frequently Asked Questions from Supportive Housing Providers RE: COVID-19 \(3/31/20\)](#)
- **NYS Office for People With Developmental Disabilities (OPWDD)**
 - [COVID-19 Guidance Documents](#)
 - [General Management of Coronavirus \(COVID-19\) in Facilities or Programs Operated and/or Certified by OPWDD \(3/25/20\)](#)
- **New York City Department of Health and Mental Hygiene (DOHMH)**
 - [Covid-19 Information for Providers](#) (general information)
 - [FAQ About 2019 Novel Coronavirus and COVID-19 for Health Care Providers](#)
 - [Coronavirus Disease \(COVID-19\) Guidance for Congregate Settings \(3/19/20\)](#)
 - [Interim COVID-19 Guidance for Homeless Shelters \(2/25/20\)](#)

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This guidance document is intended to provide general information only, not legal advice. If you have any questions about this guidance document, please contact our Resource Call Hotline at (212) 219-1800 ext. 224 or visit our website at www.lawyersalliance.org for further information.

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