



# Department of Medicaid

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Maureen M. Corcoran, Director

## Ohio Department of Medicaid Telehealth Rules: Frequently Asked Questions

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The Ohio Department of Medicaid (ODM) and the Ohio Department of Mental Health and Addiction Services (OhioMHAS), in partnership with the Governor's Office, executed emergency rules to expand and enhance telehealth options for Ohioans and their providers. These rules relax regulations so more people can be served safely in their homes, rather than needing to travel to health care providers' facilities. This set of regulatory changes is being collectively implemented by our departments to help reduce risk of exposure to COVID-19 for patients, their families, and our health care workforce that is engaged in the community response to COVID-19. The Governor's [Executive Order 2020-05D](#) adopts/amends the following emergency rules:

- ODM's [5160-1-21 Telehealth during a state of emergency](#) and its [appendix](#) (new rule)
- OhioMHAS's [5122-29-31 Interactive videoconferencing](#) (rule amendment)

This rule package promotes access to a wide set of medical and behavioral health services; ODM will quickly work to issue additional telehealth regulatory relief to address other types of practitioners and providers, including those working in the areas of long term services and supports (nursing facilities, Medicaid waiver home and community-based services for individuals with developmental disabilities and other home care needs, home health, private duty nursing, intermediate care facilities, and others.)

Please note: While the OhioMHAS emergency rule applies to all community behavioral health providers certified by OhioMHAS, the ODM emergency rule only applies to individuals covered by Medicaid and their providers. ODM's emergency rule will be implemented by Medicaid fee-for-service, Medicaid Managed Care Plans (MCPs), and MyCare Ohio Plans (MCOPs).

ODM will make its emergency rule effective beginning on the date Governor DeWine declared a state of emergency: March 9, 2020.

We have compiled a preliminary list of questions and answers to assist providers as they continue to deliver services during the crisis. Please visit Ohio Medicaid's [COVID-19 website](#) for ongoing updates. Additional questions and feedback regarding Medicaid policy can be directed to [medicaid@medicaid.ohio.gov](mailto:medicaid@medicaid.ohio.gov).

Additional COVID-19 information and resources can be found at [coronavirus.ohio.gov](https://coronavirus.ohio.gov) or by calling 1-833-4ASKODH (1-833-427-5634).

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## Q1: Why are you filing emergency rules? When will they become effective?

**A:** ODM's emergency rule expands telehealth access, loosens requirements for patient/provider interactions, broadens the network of providers that can bill Medicaid, the MCPs, and the MCOPs for telehealth services, and greatly expands the list of services that can be billed by these providers using telehealth.

OhioMHAS's emergency rule creates additional flexibilities in the agency's regulations governing interactive videoconferencing for the providers certified by the agency.

The rule package will be made effective on March 9, 2020 - the date Governor DeWine declared a state of emergency.

## Q2: What does the emergency rule package do?

**A:** The ODM and OhioMHAS emergency rules expand access to medical and behavioral health services using telehealth. This action is being taken to give healthcare providers maximum flexibility as they shift as many services as possible away from in-person visits. Specifically, the rules do the following:

*ODM [Emergency Rule 5160-1-21 Telehealth during a state of emergency](#) and [appendix](#)*

- Creates a new telehealth rule that is in effect during any time period in which the Governor of the State of Ohio declares a state of emergency and when authorized by the Medicaid director. During this time period, 5160-1-21 supersedes Medicaid's other telehealth rule, 5160-1-18.
- Allows all individuals with Medicaid to receive telehealth services – regardless of the last time they had a face-to-face visit with their health care provider, and regardless of their status as a new or existing patient.
- Defines telehealth as activities that are synchronous involving real-time, interactive audio and visual communications, as well as activities that are asynchronous, and do not have both audio and video elements. Some examples of telehealth services include videoconferences, telephone calls, images transmitted via facsimile machine, and electronic mail. ODM is relying on the professional judgment of healthcare providers to determine the appropriate method of privately communicating with each patient.
- Allows Medicaid billing regardless of patient and practitioner locations, with the exception of patients residing in penal facilities or a public institution, as defined in rule 5160:1-1-03 of the Administrative Code.
- Allows a wide range of practitioners and provider organizations to bill Medicaid for telehealth services.
- Offers a wide range of medical and behavioral health services that can be billed to Medicaid when delivered through telehealth.
- Incorporates by reference the Office of Civil Rights' Notification of HIPAA Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency.
- Incorporates by reference OhioMHAS emergency rule changes to interactive videoconferencing for community behavioral health centers treating Medicaid consumers, and suspends several Medicaid requirements for specific community behavioral health services to be delivered face-to-face.

### OhioMHAS [Emergency Rule 5122-29-31 Interactive videoconferencing](#)

- Allows the definition of “interactive videoconferencing” to include asynchronous activities that do not have both audio and video elements. Some examples of these asynchronous activities include telephone calls, images transmitted via facsimile machine, and electronic mail. The OhioMHAS rule relies on the professional judgment of treating providers to determine the appropriate method of privately communicating with each patient.
- Allows both new and established patients to receive services through interactive videoconferencing, and explicitly overrides the initial face-to-face visit requirement previously needed to initiate telehealth services.
- Adds new behavioral health services that can be delivered via interactive videoconferencing, including peer recovery, substance use disorder (SUD) case management, crisis intervention, assertive community treatment (ACT), and intensive home-based treatment (IHBT) services.
- Prior to consolidation of the ODADAS and ODMH rules, SUD case management could be provided via interactive videoconferencing. By adding SUD case management to the emergency rule, any provider that was unaware of the accidental omission from the prior OhioMHAS rule and provided SUD case management via IVC.
- Incorporates by reference the Office of Civil Rights’ Notification of HIPAA Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency.

### **Q3: Which types of practitioners are permitted to render Medicaid-covered services under ODM’s emergency telehealth rule?**

**A:** ODM’s emergency rule allows the following types of practitioners to render services via telehealth:

- Physicians
- Podiatrists
- Psychologists
- Physician assistants
- Clinical Nurse Specialists (CNS), Certified Nurse-Midwife (CNW), and Certified Nurse Practitioners (CNP)
- Dietitians
- Independently licensed behavioral health practitioners, and supervised behavioral health practitioners and trainees, as defined in OAC Chapter 5160-8-05
- Audiologists, audiologist assistants, and audiology aides
- Occupational therapists and occupational therapist assistants
- Physical therapists and physical therapist assistants
- Speech-language pathologists, speech language pathology aides, and individuals holding a conditional license, as defined in section 4753.071 of the Revised Code.
- Medicaid School Program (MSP) practitioners, as defined in OAC Chapter 5160-35
- Practitioners affiliated with community behavioral health centers

#### Q4: Which types of provider organizations can bill Medicaid, the Medicaid Managed Care Plans (MCPs), and the MyCare Ohio Plans (MCOPs) for services rendered using telehealth under ODM's emergency rule?

**A:** The following provides can bill Medicaid, the MCPs, and MCOPs for services rendered via telehealth:

- Independently practicing clinicians identified in the response above
- Professional medical groups
- Federally qualified health centers (FQHCs) and rural health clinics (RHCs)
- Ambulatory health care clinics (AHCCS) as defined in OAC Chapter 5160-13, which include end-stage renal disease (ESRD) dialysis clinics, family planning clinics, outpatient rehabilitation clinics, primary care clinics, public health department clinics, and speech-language-audiology clinic
- Outpatient hospitals
- Hospitals delivering outpatient hospital behavioral health (OPHBH) services, including psychiatric hospitals
- Medicaid School Program providers
- Community behavioral health centers that are certified by OhioMHAS
- Providers of applied behavioral analysis (ABA) billing through the MCPs.

#### Q5: What do these changes mean for patients and their providers?

**A:** The goal of the emergency rule package is to dramatically increase regulatory flexibility so medical and behavioral health providers can offer health care services to Ohioans remotely, thereby increasing access to care, reducing pressure on our hospital systems, and reducing unnecessary patient traffic in waiting rooms during the COVID-19 emergency.

The rule also enables practitioners to more efficiently manage increasing patient inquiries and healthcare demands while maintaining recommended social distancing protocols designed to protect healthcare workers.

#### Q6: How does the emergency rule change the specific telehealth services that can be billed to Medicaid, the MCPs, and the MCOPs?

**A:** All of the changes in ODM's emergency rule, 5160-1-21, apply to Medicaid fee-for-service (FFS), MCP, and MCOP services. The full list of specific services that are reimbursable can be found in the rule's appendix. The emergency rule allows the following types of telehealth services to be billed to Medicaid, the MCPs, and the MCOPs:

- Evaluation and management of new and existing patients, not to exceed moderate complexity (i.e. evaluation and management levels 1-4)
- Inpatient or office consultations for new or established patients
- Mental health and substance use disorder evaluations and psychotherapy,
- Remote evaluation of recorded video or images
- Virtual check-ins by a physician or other qualified health care professional

- Online digital evaluation and management services
- Remote patient monitoring of physiologic parameters
- Occupational therapy, physical therapy, speech language pathology, and audiology services
- Medical nutrition services
- Lactation counseling provided by dietitians
- Psychological and neuropsychological testing
- Smoking and tobacco use cessation counseling
- Developmental test administration
- Follow-up consultation with a patient
- Services under the specialized recovery services (SRS) program

In addition to the services listed in the appendix of ODM’s emergency rule, the following types of telehealth services can also be billed to Medicaid, the MCPs, and the MCOPs:

- Medicaid School Program services
- Nearly all behavioral health services delivered by OhioMHAS certified providers, as outlined at [www.bh.medicaid.ohio.gov](http://www.bh.medicaid.ohio.gov).

### Q7: Which specific community behavioral health services can be delivered via telehealth under the ODM and OhioMHAS emergency rules?

**A:** With the emergency rule in effect, OhioMHAS certified entities can bill Medicaid, the MCPs, and the MCOPs for delivering the following services via telehealth:

- Evaluation and management of new and existing patients
- Psychiatric diagnostic evaluation
- Psychotherapy (individual, group, and family)
- Psychological testing
- Smoking cessation
- Community psychiatric supportive treatment (CPST)
- Therapeutic Behavioral Services (TBS) and psychosocial rehabilitation (PSR)
  - Please note: TBS group service – hourly and per diem, as defined in 5160-27-06, is *not* included in the list of services that can be billed to Medicaid when delivered via telehealth.
- RN and LPN nursing services
- SUD assessment
- SUD counseling (individual, group, intensive outpatient group, and partial hospitalization group)
- SUD case management
- Assertive community treatment (ACT)
- Intensive home based therapy (IHBT)
- Peer recovery support
- Behavioral health crisis intervention
- SBIRT (screening, brief intervention and referral to treatment)
- Practitioner services rendered to individuals in SUD residential treatment
- Specialized Recovery Services (SRS)

Outpatient hospital behavioral health (OPHBH) telehealth services will be allowed to the same extent they are allowed for OhioMHAS-certified providers, except for SRS and peer recovery services, which cannot be billed by OPHBH providers.

**Q8: Will there be limitations on where patients and practitioners can be located when telehealth services are delivered?**

A: There will be no limitations to practitioner or patient site locations for services delivered via telehealth, with the exception of patients who are located in a penal facility or a public institution as defined in rule 5160:1-1-03 of the Administrative Code.

Patients can be in their own homes and any other locations while accessing care, and practitioners can also deliver services from their offices, homes, and other locations.

**Q9: Which electronic / streaming services can I use to offer services via telehealth? Do the electronic / streaming services have to be HIPAA compliant?**

**A:** Through the emergency rules, ODM and OhioMHAS are permitting the use both synchronous and asynchronous communications involving any combination of audio, video, and text. ODM and OhioMHAS are aligning with privacy flexibilities being implemented at the federal level, and we are also being as flexible as possible within the confines of state law. **We are relying on the judgment of our healthcare professionals to decide the best mechanisms of private communication to appropriately treat their patients.**

Paragraph (C) of Medicaid’s emergency rule, 5160-1-21, incorporates HIPAA-related directives of the Office of Civil Rights (OCR) at the Department of Health and Human Services (HHS) issued during the COVID-19 national emergency by reference. As of the date noted on this FAQ, OCR’s “Notification of Enforcement Discretion for telehealth remote communications during the COVID-19 nationwide public health emergency” (the Notification) states covered health care providers subject to the HIPAA rules may communicate with patients, and provide telehealth services, through remote communications technologies even though some of these 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. The restrictions in the Notification apply, including:

- (a) Providers can use any audio or video non-public facing remote communication product that is available to communicate with patients;
- (b) Facebook Live, Twitch, TikTok, and similar video communication applications are public facing, and should not be used in the provision of telehealth by covered health care providers;
- (c) Providers are encouraged to notify patients that these third-party applications potentially introduce privacy risks, and providers should enable all available encryption and privacy modes when using such applications; and
- (d) Providers are to exercise professional judgment in the use of telehealth examinations.

**Q10: How do I submit claims for the services that are newly covered under the emergency rule? When will ODM have billing guidance available?**

**A:** Medicaid, the MCPs, and the MCOPs will be working expeditiously to configure the emergency rule's changes in each of our IT systems in a consistent manner to ease administrative burden on providers. ODM will be announcing a single future implementation date for telehealth IT system changes spanning Medicaid fee-for-service, MCPs, and MCOPs.

**Prior to the implementation date for the IT system changes, providers may either hold claims until the IT system changes are implemented, or providers can submit claims for telehealth services using existing billing guidance.**

**If providers choose to submit claims for telehealth service prior to implementation of the IT system changes, it will be very important for providers to continue to use the billing guidance that was in place before the effective date of the emergency rule (i.e. pre-emergency billing guidance.)**

- While providers can deliver all of the services covered under the emergency rule via telehealth beginning March 9, 2020, they should NOT add the telehealth modifier "GT" to claims for services that have been added via the emergency telehealth rule. Claims may be denied if the GT modifier is added to the new services prior to the implementation date of the IT system changes.
- The emergency rule includes a number of new CPT codes that were not previously covered by the Medicaid program. Providers should hold claims for these new codes until the IT system changes are implemented; failure to hold these claims could result in claims denials.
- Until the IT system changes are made, providers should continue to use pre-emergency place of service codes and requirements for claim submission purposes.
- **Providers must maintain documentation of services delivered via telehealth prior to and after the IT system changes are made.**

After the IT system changes are implemented, to the extent possible, providers should comply with the new billing guidance. Providers should maintain documentation to support any necessary exceptions to the billing guidance while working to provide access to care for individuals during this time of emergency.

Providers are also encouraged to carefully review Paragraph (E) of ODM's emergency rule, 5160-1-21, regarding submission and payment of telehealth claims. Of particular note:

(1) The practitioner site may submit a professional claim for health care services delivered through the use of telehealth.

(2) An institutional (facility) claim may be submitted by the practitioner site for the health care service through the use of telehealth. Services provided in a hospital setting may be billed in accordance with rule 5160-2-02 of the Administrative Code.

(3) The practitioner site may submit a claim for a telehealth originating fee. If such a practitioner renders a separately identifiable evaluation and management service to the patient on the same date as the health care service delivered through the use of telehealth, the provider may submit a claim for the evaluation and management service and the telehealth originating fee.



Q11: Will providers experience delays in payment? If I am not getting paid for services, what should I do?

**A:** Medicaid, the MCPs, and the MCOPs will be working expeditiously to configure the emergency rule's changes in each of our IT systems in a consistent manner to ease administrative burden on providers. To avoid claims denials and payment delays, please follow the guidance above to submit claims prior to the IT systems implementation.

We want to hear from you! Please contact us with questions, comments, and feedback.

- For general coverage, policy, and reimbursement questions, issues, and feedback, please email [medicaid@medicaid.ohio.gov](mailto:medicaid@medicaid.ohio.gov) or call the provider hotline at 800-686-1516.
- For behavioral health coverage, policy, and reimbursement questions, issues, and feedback, please contact [BH-Enroll@medicaid.ohio.gov](mailto:BH-Enroll@medicaid.ohio.gov).
- For questions regarding MCP and MCOP coverage, policy, and reimbursement, please use the contact form at: <https://medicaid.ohio.gov/provider/ManagedCare>.