



COMMONWEALTH OF PENNSYLVANIA
DEPUTY SECRETARY FOR MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

MEMORANDUM

TO: All Behavioral Health Managed Care Organizations, Behavioral Health HealthChoices Contractors, County Mental Health/Intellectual Disability Offices, and Behavioral Health Providers.

FROM: Jennifer Smith
Deputy Secretary *Jennifer S Smith*
Office of Mental Health and Substance Abuse Services

RE: Interim Telehealth Guidance

DATE: March 30, 2023

The purpose of this communication is to address stakeholder concerns specific to the impact of ending the Office of Mental Health and Substance Abuse Services' (OMHSAS) bulletin suspensions regarding signature requirements specific to consent for treatment, service verification, and treatment plans on March 31, 2023, and clarifying the use of audio-only for telehealth in the delivery of services licensed by OMHSAS.

Bulletin Suspensions

The OMHSAS Memorandum dated February 18, 2021, that temporarily suspended portions of bulletins and other guidance documents, stated that *“verbal consent must be documented at the time of service, and providers are strongly encouraged to obtain electronic signatures when possible.”*

At that time, OMHSAS stressed the need for providers to acquire platforms capable of securing electronic signatures. Given OMHSAS' previous recommendation, providers have had over two years to secure a platform capable of securing electronic signatures for consent and service verification.

It remains imperative for all providers delivering Medical Assistance Program-funded behavioral health services to have policies in place to capture consent in a way that creates an auditable trail. There are multiple ways that providers of telehealth can meet this requirement, including messages typed into the chat box of an audiovisual platform, email, text messaging, United States Postal Service mail, and documentation of verbal consent (may be one-person verification).

As OMHSAS works on a bulletin for updated telehealth guidelines, providers will be able to document consent heard by one employee of the service provider. While a previous Frequently Asked Question memo issued on August 16, 2022, required two-person verification of consent, OMHSAS will permit providers to document consent heard by one employee of the service provider.

OMHSAS has stressed the importance of developing appropriate systems to capture electronic signatures since February 2021. Given the options available to providers, OMHSAS expects providers to meet federal and state guidance. OMHSAS understands the challenges providers are experiencing and therefore, it will extend the suspension of bulletins identified in the February 18, 2021 OMHSAS memo to December 31, 2023. The suspension is specific only to consent to treatment, service verifications, and treatment plans that are scheduled to end on March 31, 2023.

Effective on January 1, 2024, providers are expected to capture consent to treatment, service verifications, and approval of treatment plans in a manner that creates an auditable file and is in accordance with the timelines expected within regulation.

Audio-Only Regulatory Changes

Act 98 of 2022 abrogated specific sections of regulations that prohibited the use of audio-only services. By deleting these provisions from the regulations, the legislature permitted the delivery of specific services using audio-only.

55 Pa. Code §1153.14(1) was removed, thereby allowing psychiatric outpatient clinical, Mobile Mental Health Treatment, or partial hospitalization outpatient services to be delivered over the telephone.

55 Pa. Code §1223.14(2) was removed, which allowed for the payment of services conducted over the telephone. This change specifically removed the prohibition on payment for clinical visits, psychotherapy, diagnostic psychological evaluations, and psychiatric evaluations conducted over the telephone.

OMHSAS shall issue a bulletin providing additional detail about the use of audio-only services. Audio-only services can only be provided when clinically appropriate and the individual served does not have access to video capability or for an urgent medical situation. The use of audio-only service delivery must be consistent with Pennsylvania regulations and federal requirements.