

Interstate Telehealth Waivers and Exemptions

OCR/HIPPA	<p>The Office for Civil Rights (OCR) at the U.S Department of Health and Human Services (HHS) will waive potential penalties for HIPAA violations against health care providers that serve patients through everyday communications technologies during the COVID-19 nationwide public health emergency.</p> <p>This applies to widely available communications apps, such as FaceTime or Skype, when used in good faith for any telehealth treatment or diagnostic purpose, regardless of whether the telehealth service is directly related to COVID-19.</p> <p>The Notification of Enforcement Discretion on telehealth remote communications may be found at: https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html.</p> <p>Under this Notice, however, 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.</p>
HHS/HIPPA	<p>Per https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf, providers covered by HIPAA may disclose private patient information without permission to a public health authority, to a foreign government (at the discretion of a public health authority), and to people at risk of contracting or spreading the virus. Information may also be shared with the patient’s family, friends or those involved in the patient’s care. Information may be shared with anyone as necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public</p> <p>Secretary Azar waived sanctions and penalties against a covered hospital that does not comply with the following provisions of the HIPAA Privacy Rule:</p> <ul style="list-style-type: none">• the requirements to obtain a patient's agreement to speak with family members or friends involved in the patient’s care. See 45 CFR 164.510(b).• the requirement to honor a request to opt out of the facility directory. See 45 CFR 164.510(a).• the requirement to distribute a notice of privacy practices. See 45 CFR 164.520.• the patient's right to request privacy restrictions. See 45 CFR 164.522(a).

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	<ul style="list-style-type: none"> • the patient's right to request confidential communications. See 45 CFR 164.522(b). <p>This waiver only applies:</p> <p>(1) in the emergency area identified in the public health emergency declaration;</p> <p>(2) to hospitals that have instituted a disaster protocol; and</p> <p>(3) for up to 72 hours from the time the hospital implements its disaster protocol. This is from: https://www.hhs.gov/sites/default/files/hipaa-and-covid-19-limited-hipaa-waiver-bulletin-508.pdf</p> <p>Similar information here: https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html.</p>
Idaho Medicaid	<p>Idaho Medicaid is expanding the number of codes reimbursable via telehealth beyond the code set within Information Release MA18-07 (https://healthandwelfare.idaho.gov/Portals/0/Providers/Medicaid/MA1807.pdf). That policy statement is temporarily rescinded.</p> <p>Any procedure delivered via telehealth may be covered when:</p> <ul style="list-style-type: none"> - The service can be safely and effectively delivered via telehealth, and - The service fully meets the code definition when provided via telehealth, and - The service is billed with a GT modifier, and - All other existing coverage criteria are met. <p>Per Medicaid Information Release MA20-07.</p>
Idaho Medicaid	<p>The Division of Medicaid Healthy Connections program is implementing a temporary suspension of the HC Primary Care Provider referral requirements. All HC referral requirements are now suspended until further notice. Per Medicaid Information Release MA20-10.</p>
Optum	<p>The temporary allowance for offering additional services via telehealth applies to all provider types (e.g. independently licensed and paraprofessionals).</p> <p>If a provider cannot deliver services via TMH, or a member cannot receive services via TMH, providers may temporarily offer services telephonically until further notice.</p>

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<p>CMS/Expanding Telehealth</p>	<p>Under a new waiver, Medicare can pay for office, hospital, and other visits furnished via telehealth across the country and including in patient's places 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 healthcare providers to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs. (https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet)</p>
<p>SAMHSA/HIPPA</p>	<p>The prohibitions on use and disclosure of patient identifying information under 42 C.F.R. Part 2 would not apply to the extent that, as determined by the provider(s), a medical emergency exists. Under 42 U.S.C. §290dd-2(b)(2)(A) and 42 C.F.R. §2.51, patient identifying information may be disclosed by a part 2 program or other lawful holder to medical personnel, without patient consent, to the extent necessary to meet a bona fide medical emergency in which the patient's prior informed consent cannot be obtained. (https://www.samhsa.gov/sites/default/files/covid-19-42-cfr-part-2-guidance-03192020.pdf)</p>
<p>SAMHSA/ Take Home Meds</p>	<p>The state may request blanket exceptions for all stable patients in an OTP to receive 28 days of Take-Home doses of the patient's medication for opioid use disorder.</p> <p>The state may request up to 14 days of Take-Home medication for those patients who are less stable but who the OTP believes can safely handle this level of Take-Home medication. This is from:</p> <p>https://www.samhsa.gov/sites/default/files/otp-guidance-20200316.pdf</p>
<p>SAMHSA/ Waive in-person requirement</p>	<p>With respect to new patients treated with buprenorphine, SAMHSA has exempted OTPs from the requirement to perform an in-person physical evaluation (under 42 C.F.R. § 8.12(f)(2)) for any patient who will be treated by the OTP with buprenorphine if a program physician, primary care physician, or an authorized healthcare professional under the supervision of a program physician, determines that an adequate evaluation of the patient can be accomplished via telehealth. This exemption will continue for the period of the national emergency declared in response to the COVID-19 pandemic, and applies exclusively to OTP patients treated with buprenorphine. This exemption does not apply to new OTP patients treated with methadone. This is from: https://www.samhsa.gov/sites/default/files/faqs-for-oud-prescribing-and-dispensing.pdf.</p>

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	<p>From that same document: An OTP can dispense medication (either methadone or buprenorphine products based on a telehealth evaluation.</p> <p>OTPs can provide medication under blanket exception: up to 14 doses for clinically less stable patients and 28 doses for clinically stable patients (clinical stability and ability to safely manage medication must be determined by the clinical team and documented in the patient’s medical record). See https://www.samhsa.gov/sites/default/files/otp-guidance-20200316.pdf.</p>
DEA	<p>Public Health Emergency is called: (https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html).</p> <p>Secretary Azar designated that the telemedicine allowance under section 802(54)(D) applies to all schedule II-V controlled substances in all areas of the United States. Accordingly, as of March 16, 2020, and continuing for as long as the Secretary’s designation of a public health emergency remains in effect, DEA-registered practitioners in all areas of the United States may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:</p> <p>A practitioner may issue the prescription using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations. Thus, the practitioner may issue a prescription either electronically (for schedules II-V) or by calling in an emergency schedule II prescription to the pharmacy, or by calling in a schedule III-V prescription to the pharmacy. This is from https://deadiversion.usdoj.gov/coronavirus.html.</p>
DEA/Home Delivery of Meds	<p>An exception has been created to 21 CFR 1301.74(i) in order to provide consistent dosing to patients enrolled at these NTPs. In the event a patient is quarantined due to the coronavirus, alternative delivery methods are available using the NTP’s established chain of custody protocol for take-home medications. “Doorstep” delivery of take-home medication is permissible in an approved lock-box.</p> <p>The delivery of the medications may be conducted by an authorized NTP staff member, law enforcement officer, or national guard personnel -</p>

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	<p>rather than limiting the persons who may so deliver to those specified in 21 CFR 1301.74(i).</p> <p>This is from: https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-015)%20SAMHSA%20Exemption%20NTP%20Deliveries%20(Corona Virus).pdf,</p>
DEA/Waive in-person Requirement	<p>A DEA-registered Practitioner acting within the United States is exempt from the requirement of an in-person medical evaluation as a prerequisite to prescribing or otherwise dispensing controlled substances by means of the Internet if the Practitioner is engaged in the practice of telemedicine and is acting in accordance with the requirements of 21 U.S.C. § 802(54). This is from:</p> <p>https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-7)%20Use%20of%20Telemedicine%20While%20Providing%20Medication%20Assisted%20Treatment%20(MAT).pdf</p>