

**Santa Cruz County Behavioral Health - QI MEMO  
Telehealth & Phone Services – Volume 2 FAQ's  
COVID-19 - 3.27.2020 Update**



For definitions of Telehealth & Telephone refer to QI FAQs Volume 1 dated 3/19/20.

Thanks for all your great questions over the last week. Quality Improvement continues to raise your question with the Department of Health Care Services (DHCS) for clear guidance and will inform you of all identified changes. QI has compiled a list of answers from this week's questions:

**Q: Will there be a separate consent form for clients to consent to Telehealth?**

**A: Yes.** Telehealth is a new service delivery for our staff and clients. To support mutual understanding of telehealth service, agencies are recommended to have telehealth informed consent forms to educate and inform clients about service. County Behavioral Health is creating a specific Telehealth Service Informed Consent form for network use. This form will be shared as soon as possible once approved. **In the meantime**, consent should be obtained and documented in some manner. Your program may create standards/processes for obtaining consent.

a. Contract partners, please do provide to QI a description of how the agency will implement Telehealth services. This description should include:

- i. Platform to be used;
- ii. Program(s) that will utilize Telehealth services;
- iii. Staff training to be provided;
- iv. Implementation date;
- v. Point of contact who will be available to receive updates on a weekly basis (at a minimum) from Behavioral Health QI staff.

**Q: Can the client take a picture of signed Consent Form(s) and Release(s) of Information and then attach the picture to their email reply to my encrypted email?**

**A: Yes.** As we await further DHCS guidance on this practice, the client may use their phone to take a picture of the signed Consent for Treatment and/or ROI and send back to the clinician via reply from the encrypted email. Sending the photo via encrypted text is acceptable (see below allowable applications).

1. Agencies are encouraged to develop a process for obtaining returned copies of the paper Telehealth Consent, new-client treatment consents and ROI forms, such as confidential drop-off boxes, return encrypted email with attached sign documents, or sending a self-addressed-stamped envelope (SASE) with the paper forms when mailing to client. The clinician is strongly encouraged to obtain the hard-copy original form, so it is advised to include the clinician's name on a return envelope.
2. The clinician must assure the photo image is clear and legible before having it scanned into the medical record.

## Q: Are HIPAA requirements suspended for most video-conferencing tools?

**A: NO.** HIPAA requirements are not suspended, yet Health and Human Services (HHS) and Office of Civil Rights (OCR) has made them more generous. DHCS plans to release additional information soon. The authority on Telehealth platforms you should reference is from Health and Human Services:

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

### HHS-OCR INFORMATION

Under this Notice, covered health care providers may use popular “non-public facing” applications **without risk** that OCR might seek to impose a penalty for noncompliance with the HIPAA Rules related to the good faith provision of telehealth during the COVID-19 nationwide public health emergency. A “non-public facing” remote communication product is one that, as a default, allows only the intended parties to participate in the communication.

- **Acceptable Video chat (telehealth) applications include:** Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Whatsapp video chat, Zoom, or Skype, to provide telehealth
- **Acceptable encrypted texting applications include:** Signal, Jabber, Facebook Messenger, Google Hangouts, Whatsapp, or iMessage. *Typically, these platforms employ end-to-end encryption, which allows only an individual and the person with whom the individual is communicating to see what is transmitted. The platforms also support individual user accounts, logins, and passcodes to help limit access and verify participants. In addition, participants are able to assert some degree of control over particular capabilities, such as choosing to record or not record the communication or to mute or turn off the video or audio signal at any point.*
  - 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. (*INFORMED CONSENT*)
- **NOT ALLOWED: Public-facing products such as TikTok, Facebook Live, Twitch, or a chat room like Slack are not acceptable** forms of remote communication for telehealth because they are designed to be open to the public or allow wide or indiscriminate access to the communication. For example, a provider that uses Facebook Live to stream a presentation made available to all its patients about the risks of COVID-19 would not be considered reasonably private provision of telehealth services.
- <https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html>
- **Does OCR permissions cover 42 CFR, Part 2?**

No. Notification addresses the enforcement only of the HIPAA Rules. The Substance Abuse and Mental Health Services Administration (SAMHSA) has issued similar guidance on COVID-19 and 42 CFR Part 2.

**SAMHSA:** <https://www.samhsa.gov/sites/default/files/covid-19-42-cfr-part-2-guidance-03192020.pdf>

- “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. Information disclosed to the medical personnel who are treating such a medical emergency may be re-disclosed by such personnel for treatment purposes as needed. We note that Part 2 requires programs to document certain information in their records after a disclosure is made pursuant to the medical emergency exception. We emphasize that, under the medical emergency exception, providers make their own determinations whether a bona fide medical emergency exists for purposes of providing needed treatment to patients.”

**Q: What is the Behavioral Health Telehealth platform?**

A: **Microsoft Team Meeting** is the preferred telehealth platform for County Behavioral Health, but all network staff are approved to provide service as needed under the above HHS-OCR guidelines. County Behavioral Health also have a HIPAA-compliant telephone service under our Avaya contract, which offers conference call functions.

Our BH Director has authorized the use of the identified approved non-public facing telehealth, teleconferencing and telecommunication applications with your department’s approval. Please talk to your supervisor or manager to learn more about this.

**Q: Can I join teleconferencing meetings hosted by another agency that is not HIPAA-Compliant when we are discussing client care, such as a CFT meeting?**

A: Yes. At this time, we are encouraging all stakeholders to continue “good faith” due diligence with regards to protecting client Personal Health Information (PHI) and treatment information.

**Q: What location code do I use when doing administrative activities at home (examples: writing an assessment, developing the treatment plan, etc.)?**

A: Use the location “Office”.

**Q: DMC-ODS and MHP: My client would prefer to suspend services until they are able to return to in-person sessions. What do I do?**

A: It would be appropriate to terminate treatment if the client wishes to suspend services. Be sure to inform the client that they may return and request to restart services (at that time the Assessment and Treatment Plan will need to be updated).

**Also:** Complete all termination documentation as per usual requirements;

-Document the reason for the termination, all alternative forms of treatment that were offered and resources / referrals provided;

-Provide a NOABD that contains the same information as above, including that they may request services again in the future.

**Q: Once we see our client again, how will we get Treatment Plan signatures into avatar?**

A: When the time comes, you will print the most recent version of the Treatment Plan and have the hard copy signed and then scanned into avatar. You will not redo the plan electronically.

**Q: MHP: Can Telehealth be used to place and release involuntary holds on individuals (Evaluation & Application for 72-Hour Detention for Evaluation and Treatment (WIC 5150))?**

A: Per Welfare & Institutions Code 5008 (a) and DHCS guidance, qualified, authorized professionals may perform face-to-face evaluation via telehealth.

- Phase 1: Evaluation for the application for 5150 hold: You **CAN** evaluate and place a person on a 5150 hold via telehealth. Telephone evaluation is **NOT** acceptable.
- Phase 2: You **CANNOT** assess the person to determine if the involuntary detention (5150) is appropriate via telehealth; this assessment must be done **in-person**.

**Q: MHP: Can an Assessment required by WIC 5151 be completed via Telehealth?**

A: **No**, per a direct email from DHCS County Support & Welfare & Institutions Code 5151, Assessments required by WIC 5151 are to be completed **in-person** and cannot be completed via telehealth. This IS the assessment to determine if the involuntary detention is appropriate.

**Q: FQHC Therapist. How do I bill and complete progress notes for a service provided via the **Telephone**?**

A: As of today, services provided by an FQHC therapist via telephone are non-billable and should be documented using a non-billable code (M631-- Non-billable Assessment or M641-- Non-billable Therapy) and the location code, "Office."

DHCS has submitted a waiver request to their federal regulatory branch, Center for Medicare and Medicaid (CMS) requesting several exceptions, including the approval of Telephone service for FQHC billable services. A response from CMS is still pending. We will inform you on all updates.

**Q: FQHC Therapist. How do I bill and complete progress notes for a service provided via **Telehealth**?**

A: Services provided by an FQHC therapist via telehealth are billable and should be documented using the correct service code (F431--Assessment, F441--Individual Therapy, F471—Crisis Assessment) and the location code, "Telehealth."

**Q: MHP: Can I use a deferred diagnosis during assessment if I have only had contact with the parents so far, and have not had contact with the child/youth client?**

A: Yes, you may use ICD-10 diagnosis "R69 - Diagnosis Deferred" to claim for Assessment (M433, M431) or Crisis Intervention (M471). You may use this diagnosis prior to meeting with the child/youth client if you have begun the assessment with the parent. The diagnosis must be updated (using "Add" diagnosis) as soon as possible and no other service codes may be claimed until an included diagnosis is determined and entered.

\*Note: Do not confuse this with marking the diagnosis status as "Working" or "Rule-out". Any status other than "Active" cannot be used for claiming services. The Primary diagnosis must always be "Active".

**Q: DMC-ODS: What are my options to complete the ASAM LOC (level of care) Assessment and the Health and Physical Exam?**

**A:** The ASAM LOC as well as the health and physical MUST be completed via Telehealth or in-person as the ASAM is the core initial assessment tool at intake to demonstrate medical necessity.

**Q: DMC-ODS: Do I still need to obtain client signatures for our group sign-in sheets? If so, how do we obtain signatures for our group sign-in sheets?**

**A:** Yes. At this time, please continue with this DHCS regulation. This question has been submitted to DHCS for further guidance and a response is pending.

How to obtain client signatures on group sign-in sheet: It is recommended that you document in the individual's progress note Presentation field that the client was present in a group that was conducted via Phone or Telehealth. It is also recommended that you continue to create group sign-in sheets and besides the client's printed name, write in that client was present via Phone or Telehealth. You may want to modify the sign-in sheet to include the client's Avatar ID so you can retrieve the progress notes later if needed.

**Q: What case management activities can I bill for?**

- Can I claim for identifying and delivering information about resources to families? NO
- Can I claim for looking up resources electronically and sending them to families via phone call or text message? NO
- Can I claim for purchasing supplies (for schoolwork, recreational activities, therapeutic interventions, etc.) and then dropping them off for the client? NO

**A: Case Management (CM) is claimed as before; it has not changed.** It can be provided via Telehealth or Telephone. CM is a service that assists a client to access needed services. CM may include communication, coordination, referral and linkage. A more complete description can be found in the Documentation Manual on pgs. 11, 22, and 27.

-CM is **not** delivering items to clients.

-Assisting a client to access needed services is **not** simply doing an electronic search or other similar administrative task.

-CM **is** actively seeking information for appropriate referral and linkage, such as speaking directly with a potential referral program to request necessary information for the client to use the service, then helping the client to access that service.

-CM **is** best practiced with the client involved.

-As with all other services, communication via email and/or text is not claimable.

It is important to remember that not all services we provide are billable. There are non-billable services that your program may approve. To discuss appropriate non-billable services please consult with your supervisor.