



<b>Health Care Agency Mental Health and Recovery Services Policies and Procedures</b>	Section Name:	Care and Treatment
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	SIGNATURE	DATE APPROVED
Director of Operations Mental Health and Recovery Services	<u>Signature on File</u>	<u>7/20/2022</u>

**SUBJECT:** Telehealth Services in Drug Medi-Cal Organized Delivery System

**PURPOSE:**

To provide timely and appropriate telehealth services to beneficiaries of the Orange County Health Care Agency (OCHCA), Mental Health and Recovery Services (MHRS) and to comply with all applicable federal and state laws and regulations pertaining to telehealth services (e.g., Health Insurance Portability and Accountability Act (HIPAA), California’s Confidentiality of Medical Information Act, Privacy Rules, 42 CFR Part 2 and Welfare and Institutions Code section 5328).

**POLICY:**

MHRS staff in County and County Contracted Drug Medi-Cal Organized Delivery System (DMC-ODS) and Substance Use Disorder (SUD) programs shall provide telehealth services in accordance with the requirements set forth by the California Department of Health Care Services (DHCS) to ensure Medi-Cal covered benefits or services are being provided. Telehealth services may be provided to beneficiaries when other equivalent in-person services are not available or if the beneficiary and providers have a clinical need for this mechanism of service delivery. A clinician, medical director, or beneficiary’s current treatment provider shall determine if it is clinically appropriate for a beneficiary to receive services through telehealth.

All services provided via telehealth require explicit written consent from the beneficiary. This consent shall be documented and placed in the beneficiary’s health record.

**SCOPE:**

This policy applies to all County and County Contracted DMC-ODS and SUD programs and staff who are providing services within their scope of practice and who meet the requirements as a provider under Business and Professions Code section 2290.5 (a)(3)).

**REFERENCES:**

[Business and Professions Code § 2290.5](#)

[Business and Professions Code §§ 2290.5\(a\) \(2-4\)](#)

42 Code of Federal Regulations (CFR) Part 2, Confidentiality of Substance Use Disorder Patient Records

[California Department of Health Care Services, Medi-Cal Provider Manual – Telehealth](#)

**FORMS:**

[OCHCA MHRs General Informed Consent for Telehealth and Telephonic Services](#)

**DEFINITIONS:**

Asynchronous store and forward - The transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient. (Business and Professions Code section 2290.5(a)(1))

Distant Site - A site where a health care provider who provides health care services is located while providing these services via a telecommunications system. (Business and Professions Code section 2290.5(a)(2))

E-Consults - Asynchronous health record consultation services that provide an assessment and management services in which the patient's treating health care practitioner (i.e., attending or primary) request the opinion and/or treatment advise of another health care practitioner (i.e., consultant) with specific specialty expertise to assist in the diagnosis and/or management of a patient's health care needs without patient face-to-face contact with the consultant. E-consults between health care providers are designed to offer coordinated multidisciplinary case reviews, advisory opinions and recommendations of care. E-consults are permissible only between health care providers.

Health Care Provider – A person rendering Medi-Cal covered benefits or services provided via a telehealth modality must meet the requirements of Business and Professions Code (B&P Code), Section 2290.5(a)(3), or equivalent requirements under California law in which the provider is considered to be licensed.

Originating Site - A site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates. (Business and Professions Code section 2290.5(a)(4))

Synchronous interaction - A real-time interaction between a patient and a health care provider located at a distant site. (Business and Professions Code section 2290.5(a)(5))

Telemedicine - Two-way, real time interactive communication between the patient and the physician or practitioner at the distant site. This electronic communication means the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment. (Centers for Medicare and Medicaid Services website)

Telehealth - The mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the

originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. (Telehealth includes telemedicine.) (Business and Professions Code section 2290.5(a)(6))

**PROCEDURE:**

I. Telehealth criteria

- A. Treating provider at the distant site believes that the Medi-Cal benefits or services being provided are clinically appropriate based upon evidence-based medicine and/or best practices to be delivered via telehealth, subject written consent by the beneficiary.
- B. Benefits or services delivered via telehealth meet the procedural definition and components of that type of service.
- C. The benefits or services provided via telehealth meets all laws regarding confidentiality of health care information and a beneficiary's right to his or her medical information.

II. Telehealth services are subject to the same privacy and security laws and regulations as services provided face-to-face. Providers must ensure that the video equipment that will be used to provide telehealth is compliant for HIPAA, California's Confidentiality of Medical Information Act, and if applicable, 42 CFR Part 2 or California Welfare and Institutions Code §5328.

- A. The provider opting to utilize telehealth is responsible for ensuring that they provide the beneficiary with the appropriate administrative, physical, and technical safeguards to protect the beneficiary's privacy during the telehealth session.

III. Each telehealth user must meet the requirements listed under the definition of "Provider" such as in possession of a California professional license or equivalent, working toward licensure and supervised by a license mental health professional working within their scope of practice.

IV. Before telehealth can be provided, a written consent from the beneficiary for the use of telehealth as an acceptable mode of delivering health care services must be obtained and documented in the beneficiary's medical record.

- A. The General Informed Consent for Telehealth Services must contain the following information:
  - 1. A description of the risks, benefits, and consequences of telehealth.
  - 2. The beneficiary's right to withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefit to which the beneficiary would otherwise be entitled.

3. The beneficiary's right to confidentiality protections still applies.
  4. The beneficiary's right to access copies of all transmitted medical/mental health information.
  5. Explanation that there shall be no dissemination of any beneficiary images or information to other entities without further written consent and an Authorization to Disclose (ATD) Protected Health Information (PHI).
- B. A beneficiary shall not be precluded from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.
- C. Both the originating and distant sites must obtain a General Informed Consent for Telehealth Services if the beneficiary's medical record is not shared.

Note- All other treatment consents must also be obtained and documented.

V. Documentation Standards

- A. The following type of SUD services may be provided through telehealth:
1. Assessments
    - a) Initial Intakes
    - b) Initial Assessments
    - c) Re-Assessments and Continued Services Justification (CSJ)
    - d) Treatment Planning
  2. Individual Counseling sessions (DMC-ODS)
  3. Collateral services
  4. Monitoring of beneficiaries' progress
  5. Case Management/Consultations
  6. Discharge Planning
- B. Each progress note must indicate that the service was provided through telehealth and that the provider intends for the encounter to take the place of a face-to-face visit.
- C. Each progress note must state that the service is medically necessary.

- D. Each progress note must document that the service being provided is clinically appropriate to be delivered via telehealth and does not require the physical presence of the beneficiary.
  - E. Each progress note shall indicate the system that was utilized to provide telehealth services.
  - F. Authorization to Use and Disclose (ATD) Protected Health Information (PHI) must be obtained prior to releasing information and documented in a progress note.
  - G. Providers must use the appropriate procedure codes for the type of DMC-ODS or SUD service that is being provided via telehealth.
  - H. All required documentation elements for the type of service provided are still required when utilizing telehealth and the steps the clinician took to ensure the beneficiary's privacy was protected need to be documented.
  - I. Licensed providers and non-licensed staff may provide services via telehealth, as long as the service is within their scope of practice.
  - J. Certain services, such as residential services, require a clearly established site for services and in-person contact with a beneficiary in order to be claimed and therefore is not an allowable service to provide telehealth.
- VI. The above procedures must be followed at all times when providing telehealth. In the event of a declaration of a National Disaster or National Emergency, Authority and Quality Improvement Services (AQIS) and Adult and Older Adult (AOA) and Children, Youth and Prevention (CYP) will provide written guidance on any temporary modification to this policy and procedure.