

# Telehealth Guidance in Response to COVID-19

If you are in the midst of or have not yet started providing services by telephone or two-way synchronous video communication, here are some key topics and corresponding resource links available to help you deliver Telehealth services effectively and appropriately.

- **ATTESTATION:** This is required to deliver Telehealth services for the New York State Offices of Mental Health and Addiction Services and Supports. If your agency has not yet submitted an attestation to either OMH or OASAS as applicable, this should be completed right away. Attestations are considered effective once submitted. Keep a copy for your records.
- **CONFIDENTIALITY:** OCR has published a bulletin advising covered entities of further flexibilities available to them as well as obligations that remain in effect under HIPAA as they respond to crises or emergencies.
- **CONSENT:** Verbal, informed consent is acceptable at this time and must be documented in the encounter record. Providers remain required to obtain written consent as soon as possible.
- **DOCUMENTATION:** Documentation of attestation submission, informed consent and service modality, components and duration are key elements required in the encounter record.
- **PROGRAM MODIFICATION:** Certain programs and services have been modified by the oversight agency to accommodate and allow for Telehealth. Program review is required to understand the type of Telehealth permissible for the service, the duration and/or frequency required to qualify for billing as well as the corresponding coding requirements.
- **CODING:** Medicaid Codes to describe services provided or attempted during the COVID-19 emergency status as well as Modifiers to describe services provided via Telehealth as a modality in response to the current COVID-19 emergency status are required for billing and reimbursement.
- **COST SHARE:** During the state of emergency related to COVID-19, insurers that provide comprehensive health insurance coverage may not impose, and no insureds shall be required to pay, copayments, coinsurance, or annual deductibles for an in-network service otherwise covered under the policy when such service is delivered via Telehealth.
- **PRESCRIBING:** CMS has temporarily waived provisions of the Ryan-Haight Act to allow practitioners to prescribe Schedule II-V controlled substances via telemedicine without an in-person medical evaluation provided.

## Links to Telehealth Guidance

[DFS guidance on telehealth or telemedicine services](#)

[New York State Department of Health's \(DOH\) guidance on telehealth or telemedicine services](#)

[New York State's Office of Mental Health's \(OMH\) guidance on telehealth or telemedicine services](#)

[New York State's Office of Addiction Services and Supports \(OASAS\) guidance on telehealth or telemedicine services](#)

[New York State's Office for People with Development Disabilities \(OPWDD\) guidance on telehealth or telemedicine services](#)

## Connect with Us

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\*Please see pages 2-5 for expanded topic detail and additional resource links



## Expanded Topic Detail and Additional Resource Links

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| <b>TELEHEALTH GUIDANCE IN RESPONSE TO COVID 19</b> | <ul style="list-style-type: none"> <li>In response to the current COVID 19 emergency, the New York State Offices of Mental Health, Addiction Services and Supports, and Persons With Developmental Disabilities have adopted and incorporated changes to ensure continuous care is provided to our most vulnerable populations with the use of Telehealth services.</li> <li>Telehealth services refers to the delivery of care by telephonic and/or two-way synchronous video communication, including technology commonly available on smart phones and other devices. Healthcare providers may use any non-public-facing remote communication product to communicate with patients (e.g., Skype for Business, Updox, Doxy.me, Zoom for Healthcare). Public-facing video applications are not permitted (e.g., Facebook Live, Twitch, Tik Tok are expressly excluded).</li> </ul>   |
| <b>TERMINOLOGY</b>                                 | <ul style="list-style-type: none"> <li>OMH: Telemental</li> <li>OASAS: Telepractice</li> <li>OPWDD: Telehealth</li> </ul>   |
| <i>Links to Guidance Documents</i>                 | <ul style="list-style-type: none"> <li>OMH: <a href="https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf">https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf</a> and <a href="https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-fags.pdf">https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-fags.pdf</a></li> <li>OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/04/telepractice-fags.pdf">https://oasas.ny.gov/system/files/documents/2020/04/telepractice-fags.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf">https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf</a></li> <li>OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf">https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf</a></li> </ul> |

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| <b>PROVIDER CERTIFICATION AND ATTESTATION TO OFFER TELEHEALTH SERVICES</b> | <p>Self-Attestation of Compliance:</p> <ul style="list-style-type: none"> <li>OMH: Attestations previously submitted will be honored to include the additional provisions added on March 13, 2020 and March 30, 2020. <ul style="list-style-type: none"> <li>Attestation can be submitted at the agency/program level; a separate attestation for each practitioner is not needed.</li> <li>SEND TO: <a href="mailto:amy.smith@omh.ny.gov">amy.smith@omh.ny.gov</a>.</li> </ul> </li> <li>OASAS: In response to the COVID-19 crisis, all OASAS-certified or otherwise authorized providers should submit a self-attestation for permission to utilize Telepractice during this emergency. <ul style="list-style-type: none"> <li>OASAS is requesting one attestation per agency to cover all programs. Each program PRU should be listed on the attestation.</li> <li>SEND TO: <a href="mailto:certification@oasas.ny.gov">certification@oasas.ny.gov</a></li> </ul> </li> </ul> |
| <i>Links to Guidance Documents</i>   | <ul style="list-style-type: none"> <li>OMH: <a href="https://omh.ny.gov/omhweb/guidance/self-attestation-telemental-health-disaster-emergency.pdf">https://omh.ny.gov/omhweb/guidance/self-attestation-telemental-health-disaster-emergency.pdf</a></li> <li>OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/03/attestation-covid-19.pdf">https://oasas.ny.gov/system/files/documents/2020/03/attestation-covid-19.pdf</a></li> <li>OPWDD: NA</li> </ul>  |

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| <p><b>CONSENT FOR TREATMENT and CLIENT SIGNATURES ON TREATMENT PLANS and CONFIDENTIALITY &amp; HIPAA COMPLIANCE</b></p> | <ul style="list-style-type: none"> <li>• Consent should be informed: Document that the patient has been made aware that the encounter is being conducted via telephone or two-way, private audio-visual technology.</li> <li>• Verbal consent is acceptable and must be documented within the individual’s encounter notes.</li> <li>• Recording verbal consent once within a record is acceptable.</li> <li>• Providers are required to obtain signed consent when practicable. Providers may use e-mail, fax machines, or US mail to send two consent forms to clients and to receive signed consent forms back from clients.</li> <li>• OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of Telehealth during the COVID-19 nationwide public health emergency.</li> </ul>   |
| <p><i>Links to Guidance Documents</i></p>   | <ul style="list-style-type: none"> <li>• OCR: <a href="https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf">https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf</a></li> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf">https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf</a> and <a href="https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-faqs.pdf">https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-faqs.pdf</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/04/telepractice-informed-consent.pdf">https://oasas.ny.gov/system/files/documents/2020/04/telepractice-informed-consent.pdf</a> and <a href="https://oasas.ny.gov/system/files/documents/2020/03/letter-of-counsel-covid-19-3.9.2020-002-signed.pdf">https://oasas.ny.gov/system/files/documents/2020/03/letter-of-counsel-covid-19-3.9.2020-002-signed.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf">https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf</a></li> <li>• OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf">https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf</a></li> </ul> |

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| <p><b>DOCUMENTATION</b></p>               | <ul style="list-style-type: none"> <li>• Providers should indicate in their documentation that the service was provided telephonically or via video.</li> <li>• Patient verbal consent should be documented in the service delivery record.</li> <li>• Documentation of verbal consent once within a record is sufficient.</li> <li>• Providers are required to obtain written consent when practicable. Consent forms may be mailed or faxed and collected as soon as it is possible.</li> </ul>   |
| <p><i>Links to Guidance Documents</i></p> | <ul style="list-style-type: none"> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/">https://omh.ny.gov/omhweb/guidance/</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/04/telepractice-faqs.pdf">https://oasas.ny.gov/system/files/documents/2020/04/telepractice-faqs.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf">https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf</a></li> <li>• OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf">https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf</a></li> </ul> |



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| <p><b>PROGRAM MODIFICATION</b></p>        | <p>Program and treatment requirements have been temporarily modified with the delivery of Telehealth services (e.g., time factors for delivering services, required face-to-face encounters to perform assessments may be lifted to be provided by Telehealth). Certain services are specifically excluded from Telehealth. It is important to access and review the program guidance provided by the oversight agency.</p> <ul style="list-style-type: none"> <li>• OMH has issued recent Program Guidance changes to include: ACT, CDT, Child Day Treatment, Partial Hospitalization (PH), and PROS. <ul style="list-style-type: none"> <li>○ <a href="#">OMH COVID-19 Guidance - Clinic Treatment Programs Documentation</a> (4/13/2020)</li> <li>○ <a href="#">OMH COVID-19 Guidance - ACT Program and Billing</a> (4/13/2020)</li> <li>○ <a href="#">OMH COVID-19 Guidance - CDT Program and Billing</a> (4/13/2020)</li> <li>○ <a href="#">OMH COVID-19 Guidance - Children’s Day Treatment Program and Billing</a> (4/13/2020)</li> <li>○ <a href="#">OMH COVID-19 Guidance - Partial Hospitalization Program and Billing</a> (4/13/2020)</li> <li>○ <a href="#">OMH COVID-19 Guidance - PROS Program and Billing</a> (4/13/2020)</li> </ul> </li> <li>• OASAS Program Guidance related to Telepractice includes but is not limited to: Impaired Driver Screening And Assessment Services, Children’s Waiver Home and Community-Based Services Regarding Respite Services, and Authorization of Community-Based Long-Term Services and Supports Covered by Medicaid.</li> <li>• OPWDD Program Guidance is issued specific to Residential habilitation and Respite services.</li> <li>• *Please review the program resources and guidance related to Telehealth as this list is not all inclusive and is subject to change.</li> </ul> |
| <p><i>Links to Guidance Documents</i></p> | <ul style="list-style-type: none"> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/">https://omh.ny.gov/omhweb/guidance/</a> and <a href="https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-faqs.pdf">https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-faqs.pdf</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/03/covid19-providers-of-impaired-driver-screening-and-assessment-services.pdf">https://oasas.ny.gov/system/files/documents/2020/03/covid19-providers-of-impaired-driver-screening-and-assessment-services.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/04/oagencies_covid19_respite_040820.pdf">https://oasas.ny.gov/system/files/documents/2020/04/oagencies_covid19_respite_040820.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/04/doh_covid19_medicaidlongtermservicesupports_040820.pdf">https://oasas.ny.gov/system/files/documents/2020/04/doh_covid19_medicaidlongtermservicesupports_040820.pdf</a>,</li> <li>• OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf">https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf</a></li> </ul>  |

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| <p><b>CODING</b></p>                      | <ul style="list-style-type: none"> <li>• Modifier use for services provided by Telehealth during COVID-19 Emergency is expanded.</li> <li>• Modifiers CR, GT and 95</li> <li>• Rate Codes are defined for services provided or attempted.</li> </ul>   |
| <p><i>Links to Guidance Documents</i></p> | <ul style="list-style-type: none"> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf">https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf</a> and <a href="https://omh.ny.gov/omhweb/guidance/covid-19-telehealth-modifiers.xlsx">https://omh.ny.gov/omhweb/guidance/covid-19-telehealth-modifiers.xlsx</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/03/letter-of-counsel-covid-19-3.9.2020-002-signed.pdf">https://oasas.ny.gov/system/files/documents/2020/03/letter-of-counsel-covid-19-3.9.2020-002-signed.pdf</a></li> <li>• OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/03/3.24.2020-covid19-day-services-billing-guidance_final.pdf">https://opwdd.ny.gov/system/files/documents/2020/03/3.24.2020-covid19-day-services-billing-guidance_final.pdf</a></li> </ul> |

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| <b>COST SHARE</b>                  | New Yorkers do not have to pay copayments, coinsurance, or annual deductibles for in-network Telehealth services.   |
| <i>Links to Guidance Documents</i> | <ul style="list-style-type: none"> <li>• DFS: <a href="https://www.dfs.ny.gov/reports_and_publications/press_releases/pr20203171">https://www.dfs.ny.gov/reports_and_publications/press_releases/pr20203171</a></li> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/">https://omh.ny.gov/omhweb/guidance/</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/04/telepractice-faqs.pdf">https://oasas.ny.gov/system/files/documents/2020/04/telepractice-faqs.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf">https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf</a></li> <li>• OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf">https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf</a></li> </ul> |

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| <b>PRESCRIBING CONTROLLED SUBSTANCES</b> | As of 3/31/2020, the <u>Drug Enforcement Administration (DEA)</u> issued updated guidance giving practitioners flexibility, to prescribe buprenorphine to new and existing patients with opioid use disorder via telephone without requiring such practitioners to first conduct an examination of the patient in person or via telemedicine.  |
| <i>Links to Guidance Documents</i>       | <ul style="list-style-type: none"> <li>• DEA: <a href="https://www.deadiversion.usdoj.gov/coronavirus.html">https://www.deadiversion.usdoj.gov/coronavirus.html</a>.</li> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-faqs.pdf">https://omh.ny.gov/omhweb/guidance/omh-covid-19-disaster-emergency-faqs.pdf</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/04/oasas-guidance-dea-bup-induction.pdf">https://oasas.ny.gov/system/files/documents/2020/04/oasas-guidance-dea-bup-induction.pdf</a> and <a href="https://www.samhsa.gov/sites/default/files/dea-samhsa-buprenorphine-telemedicine.pdf">https://www.samhsa.gov/sites/default/files/dea-samhsa-buprenorphine-telemedicine.pdf</a></li> <li>• OPWDD: NA</li> </ul> |

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| <b>WHAT HAS NOT CHANGED</b>        |  |
| Scope of Practice                  | Providers must provide services within their scope of practice.  |
| Service Requirements               | Telehealth guidance only addresses service delivery modality. The service requirements for Medicaid reimbursement is not changed except where addressed in separate guidance. See Program Guidance.  |
| Rates                              | Reimbursement rates for Medicaid services.   |
| Service Documentation              | All documentation required for face-to-face services applies during Telehealth.  |
| <i>Links to Guidance Documents</i> | <ul style="list-style-type: none"> <li>• OMH: <a href="https://omh.ny.gov/omhweb/guidance/">https://omh.ny.gov/omhweb/guidance/</a>, <a href="https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf">https://omh.ny.gov/omhweb/guidance/covid-19-consolidated-telemental-health-guidance.pdf</a></li> <li>• OASAS: <a href="https://oasas.ny.gov/system/files/documents/2020/04/telepractice-faqs.pdf">https://oasas.ny.gov/system/files/documents/2020/04/telepractice-faqs.pdf</a>, <a href="https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf">https://oasas.ny.gov/system/files/documents/2020/03/additional-telepractice-guidance.pdf</a></li> <li>• OPWDD: <a href="https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf">https://opwdd.ny.gov/system/files/documents/2020/04/opwdd_covid19_telehealth_revised_4.10.2020.pdf</a></li> </ul> |