

Optum Health

Behavioral Health

Outline of how COVID-19 public health emergency provisions have changed following the end of emergency period on May 11, 2023

Information current as of May 15, 2023

State variations as well as the terms and conditions of a network participation agreement may apply.



Claims

Topic/Scenario	Commercial	Medicare Advantage	Medicaid	Notes
Timely Filing	<p>Timely claim filing requirements for commercial health plans will resume in 2023, as outlined in the IRS/DOL regulation related to the national emergency period. (See notes)</p> <p>Additional information on when Optum Behavioral Solutions will resume timely filing requirements will be provided as soon as details are finalized..</p>	<p>Optum Behavioral Health Solutions is following standard timely filing requirements for Medicare Advantage plans.</p>	<p>Medicaid state-specific rules and other state requirements may apply. For Medicaid and other state-specific requirements, please refer to your state-specific website.</p>	<p>During the public health emergency, Optum and UnitedHealthcare followed the IRS/DOL regulation related to the national emergency declared by the President on March 1, 2020. This regulation paused the timely filing requirements clock for commercial claims that would have exceeded the filing limitation during the national emergency period.</p> <p>On April 10, 2023, the President signed a joint resolution ending the national emergency outbreak period. As outlined in the IRS and the U.S. Department of Labor/Employee Benefits Security Administration (DOL) regulation, the timely filing requirements pause extends for an additional 60 days following the last day of the national emergency period.</p>
Billing for Telehealth and Virtual Visits	<p>Optum will reimburse clinically appropriate claims for telehealth services in accordance with the member’s benefit plan and applicable state or federal requirements.</p>	<p>Most current telehealth flexibilities will remain in place through Dec. 31, 2024, as outlined below:</p> <ul style="list-style-type: none"> Members in any U.S. geographic area can access telehealth services from their home <ul style="list-style-type: none"> Access is not limited to only those in rural areas and visits do not need to be conducted in a health care facility Certain telehealth visits can be delivered using audio-only technology (such as a telephone) if someone is unable to use both audio and video, in accordance with HHS guidance 	<p>Medicaid state-specific rules and other state requirements may apply. For Medicaid and other state-specific requirements, please refer to your state-specific website.</p>	<p>Optum will adhere to all state and/or customer requirements on continued coverage of these “exception” services.</p> <p>More Info:</p> <ul style="list-style-type: none"> CMS Waivers, Flexibilities, and the End of the COVID-19 Public Health Emergency – PDF Telehealth policy changes after the COVID-19 public health emergency

Telehealth & Virtual Visit Care Delivery Requirements

Topic/Scenario	All Health Plans	Notes
<p>HIPAA Enforcement Discretion</p>	<p>The flexibilities around the use of non-HIPAA-compliant telehealth remote communication platforms during the COVID-19 national public health emergency will end on May 11, 2023.</p> <p>A 90-day transition period will then begin, allowing providers sufficient time to come into compliance with the HIPAA rules regarding telehealth. The transition period starts on May 12, 2023, and expires at 11:59 pm on Aug. 9, 2023. Financial penalties for non-compliance will not be imposed during the transition period, in connection with the good faith provision of telehealth services.</p> <p>Beginning Aug. 10, 2023, providers must use a HIPAA-compliant communications platform to conduct telehealth visits with their patients. Failure to do so may result in financial penalties for non-compliance.</p> <p>Providers are not required to use the Optum Virtual Visits platform to provide telehealth services. Any HIPAA-compliant telehealth platform may be used to provide virtual services. Note: Apps such as Facetime®, Whatsapp®, Twitch®, etc. are not HIPAA-compliant for providing telehealth services.</p>	<p>The Office for Civil Rights (OCR) within the U.S. Department of Health and Human Services (HHS) implemented the enforcement discretion around HIPAA-compliant communication platforms during the COVID-19 national public health emergency.</p> <p>Healthcare providers should make arrangements to obtain a business associate agreement or transition to a HIPAA-compliant communications platform as soon as possible to prevent any disruption to telehealth services and to avoid financial penalties for non-compliance after Aug. 9.</p> <p>More Info:</p> <ul style="list-style-type: none"> • OCR Notice of Expiration • HIPAA and Telehealth: Expiration of Enforcement Discretion
<p>Telehealth Attestation</p>	<p>Virtual services can be provided whether or not an attestation has been completed by you or your group.</p> <p>However, you must complete an attestation if you would like to be listed in our provider directories as offering virtual visits. You can attest online by logging into Provider Express. Go to the My Practice Info section and choose “virtual visits” from the menu.</p>	

Telehealth & Virtual Visit Care Delivery Requirements (continued)

Topic/Scenario	Commercial and Medicaid	Notes	
Telehealth Flexibility	The COVID-19 Telehealth Flexibilities ended on May 12, 2023, with the expiration of the COVID-19 public health emergency. The following services can continue to be provided virtually:*	<p>*State regulations and/or health plan requirements may take precedence. For Medicaid specific requirements please see your state's Medicaid website.</p> <p>Additional guidance:</p> <ul style="list-style-type: none"> Virtual Psychological Testing and OP ECT & TMS are not demonstrated to be effective treatment modalities, <p>More info: Telemental Health Frequently Asked Questions for Providers</p>	
	Service		Approved Modality(s)
	Outpatient Therapy		Audio/Visual and telephonic (audio)
	Medication Management/Outpatient Evaluation and Management (E&M) codes		Audio/Visual and telephonic (audio)
	Inpatient E&M codes		Audio/visual only
	<ul style="list-style-type: none"> Applied Behavior Analysis (ABA)* is limited to: <ul style="list-style-type: none"> Supervision of Behavior Technicians Family Training and Guidance 		Audio/visual only
	Intensive Outpatient Program (IOP)		Audio/visual only
	Partial Hospitalization (PHP) <ul style="list-style-type: none"> Optum will continue to authorize coverage for Virtual Partial Hospitalization, which does not currently have broad evidence-based support demonstrating efficacy, in order to ensure access to care and allow providers more time to develop metrics to demonstrate efficacy of Virtual Partial Hospitalization. 		Audio/visual only.
	Psychological Testing and OP ECT & TMS		NONE
	Medicare		Notes
<ul style="list-style-type: none"> The vast majority of Medicare telehealth flexibilities will remain in place through December 31, 2024, as outlined in the CMS Telehealth Services List . Medicare members can access telehealth services in any geographic area in the United States, rather than only in rural areas. Medicare members can stay in their homes for telehealth visits that Medicare pays for rather than traveling to a health care facility. 	Certain telehealth visits can be delivered using audio-only technology (such as a telephone) if someone is unable to use both audio and video, in accordance with HHS guidance.		

Patient Care

Topic/Scenario	Commercial and Medicaid	Notes
<p>Telemedicine Flexibilities for Prescription of Controlled Substances</p>	<p>The Drug Enforcement Administration and the Substance Abuse and Mental Health Services Administration issued a temporary rule extending the telemedicine flexibilities for the prescribing of certain controlled substances. These flexibilities allow the use of telemedicine encounters for prescribing controlled substances approved by the FDA in cases where a prescribing practitioner has not conducted an in-person medical evaluation of a patient.</p> <ul style="list-style-type: none"> • The temporary rule is effective from May 11, 2023 through Nov. 11, 2023. • Practitioners may prescribe schedule II–V controlled medications via audio-video telemedicine encounters <ul style="list-style-type: none"> • This includes schedule III–V narcotic controlled medications for maintenance and withdrawal management treatment of opioid use disorders via audio-only telemedicine encounters • Prescriptions must comply with the requirements outlines in DEA guidance documents, DEA regulations, and applicable federal and state laws • Intensive Outpatient Program (IOP): Audio/visual only and Authorization required and per Optum Clinical Guidelines and Criteria for IOP • Partial Hospitalization (PHP): Audio/visual only and Authorization required and per Optum Clinical Guidelines and Criteria for PHP <ul style="list-style-type: none"> • Optum will continue to authorize coverage for Virtual Partial Hospitalization, which does not currently have broad evidence-based support demonstrating efficacy, in order to ensure access to care and allow providers more time to develop metrics to demonstrate efficacy of Virtual Partial Hospitalization 	<p>The prescribing flexibilities will be extended through Nov. 11, 2024, for any practitioner-patient telemedicine relationships established on or before Nov. 11, 2023.</p> <p>An existing relationship is defined as where the practitioner has not conducted an in-person medical evaluation of the patient and the practitioner has prescribed one or more controlled substances to the patient.</p>

State-Specific Provisions

State	Topic/Scenario	Commercial	Medicare Advantage	Medicaid
New Jersey	Telehealth cost share waivers	<p>As of May 8, 2023, this cost share waiver remains in place.</p> <p>Health plans must cover in-network services delivered through telemedicine or telehealth without cost sharing. This is effective during the Public Health Emergency and State of Emergency declared by the Governor of New Jersey in Executive Order 103 of 2020, and for a period of 90 days following the end of both the Public Health Emergency and the State of Emergency.</p> <p>Applies only to fully insured commercial plans situated in New Jersey, as outlined in Senate Bill 2467, Section 2 of P.L.2020, c.7</p>	n/a	n/a

Resources

Questions?

If you have questions about the information in this guide, please contact Optum Behavioral Services at 877-614-0484.

Other Resources

- **UnitedHealthcare**
 - [COVID-19 website](#)
 - Temporary Provision Guide (link to come on 5/12)
- **CMS FAQ:** [Waivers, Flexibilities and the End of the COVID-19 Public Health Emergency](#)
- **DEA/SAMH:** [Temporary Rule on Prescribing of Controlled Substances](#)



Information in this document is current as of May 15, 2023, and is subject to change.

The terms and conditions of your participation in a network administered by United Behavioral Health or its Affiliates and your reimbursement for Covered Services are determined by your network participation agreement and member's benefit plan. Should any item listed in this document conflict with your provider agreement or a member's benefit plan, the terms and conditions of your provider agreement or a member's benefit plan will control.

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