Telehealth and COVID-19: What Providers Need to Know

Overview

Health care providers (physicians, nurse practitioners, behavioral health professionals, clinical social workers, etc.) are leveraging telehealth to help mitigate the spread of coronavirus disease (COVID-19). For mild to moderate symptoms of COVID-19 or another illness, telehealth is a safe and convenient way to provide medical services to remote patients. Government and private payers have expanded coverage and reimbursement for telehealth to ensure continued access to care during the COVID-19 public health emergency. This document provides general guidance on telehealth and highlights some key policy changes in response to COVID-19 (as of April 7, 2020). This is not an exhaustive list; policy changes are fluid and subject to change as the COVID-19 public health emergency evolves. Health care providers are encouraged to consult with licensing boards and payers on telehealth use requirements, temporary waivers, and policy variations across plan types (e.g., self-funded).

Licensing

Generally, providers must be licensed in Maryland to treat patients in Maryland[1]; licensing requirements for other states vary.

> ***Key COVID-19 Policy Change:*** During the Maryland State of Emergency, licensing rules have been relaxed to allow providers with an active license in another state or the District of Columbia to practice telehealth in Maryland.[2, 3]

Privacy and Security

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) governs privacy and security of health information. HIPAA does not have specific requirements for telehealth; privacy and security provisions are the same as services delivered in-person.[4]

> ***Key COVID-19 Policy Change:*** During the COVID-19 national emergency, the Department of Health and Human Services, Office for Civil Rights (OCR) is exercising enforcement discretion and will not impose penalties for noncompliance with HIPAA.[5]

Technologies

Live video conferencing (synchronous)

- The exchange of information in real-time using audio-video telecommunications technology between providers and patients

- Example: Video conferencing for consultative, diagnostic, and treatment services

Store-and-forward (asynchronous)

- The exchange of information (e.g., lab results, images, etc.) that does not occur in real-time; information is securely collected and transmitted to a provider

- Example: X-rays, MRIs, or digital photos sent to a specialist for review at a later time

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[1] COMAR 10.32.03 Delegation of Duties by a Licensed Physician — Physician Assistant. Available at: www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=10.32.03.*

[2] The Office of Governor Larry Hogan, Executive Order Relating to Various Health Care Matters, March 2020. Available at: governor.maryland.gov/wp-content/uploads/2020/03/Executive-Order-Health-Care-Matters.pdf.

[3] Licenses must be in good standing. Providers are encouraged to refer to their licensing boards. More information available at: www.mbp.state.md.us/forms/TelehealthFAQs03262020.pdf.

[4] Maryland law builds on protections established by HIPAA and places certain requirements and restrictions pertaining to the confidentiality, maintenance, use, disclosure and redisclosure, patient access, and scope of health information in any form (oral, written, and electronic) collected by providers and health organizations. More information available at: health.maryland.gov/psych/pdfs/Medicalreports.pdf.

[5] Department of Health & Human Services, Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency, March 2020. Available at: hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html.

Remote patient monitoring (RPM)

- Patient-collected health data typically from home transmitted to a provider using mobile health technology

  - Example: WiFi or Bluetooth-enabled wearables that automatically send patient vitals and other information to providers

Key COVID-19 Policy Change: During the COVID-19 national emergency, OCR is permitting use of nonpublic-facing applications (e.g., Google Hangout, Skype, etc.) under certain conditions.[6]

Other Considerations

Standard of Care: Telehealth (for diagnosis, treatment, consultation, education, etc.) must abide by the same standard of care as in-person visits.

Patient Consent: Oral or written acknowledgement of telehealth services must be obtained.

Documentation: Telehealth visits should be documented, preferably in the electronic health record system.

Payer Mix: Telehealth coverage and reimbursement vary among different payers (i.e, government and private) and plan types (e.g., self-insured).[7]

Dedicated Space: Dedicated space to conduct telehealth visits should be free from distractions and ensure privacy.[8]

Professional Liability: The extent of telehealth practice covered under a professional liability policy should be verified with the insurance carrier.

Additional Resources

Maryland Board of Physicians COVID-19 Telehealth Frequently Asked Questions

mbp.state.md.us/forms/TelehealthFAQs03262020.pdf

MHCC Telehealth Virtual Resource Center

mhcc.maryland.gov/mhcc/Pages/hit/hit_telemedicine/hit_telemedicine_virtual_resource.aspx

MHCC Broadening Telehealth During a Public Health Emergency

mhcc.maryland.gov/mhcc/pages/hit/hit_telemedicine/documents/HIT_Telehealth_COVID_19_Flyer.pdf

MHCC Telehealth Readiness Assessment Tool

mhcctelehealthtool.herokuapp.com/

HIPAA and Telehealth

www.telehealthtechnology.org/sites/default/files/documents/HIPAA%20for%20TRCs%202014.pdf

CMS General Provider Telehealth and Telemedicine Tool Kit

www.cms.gov/files/document/general-telemedicine-toolkit.pdf

Questions

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[6] U.S. Department of Health and Human Services Office for Civil Rights, FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency. Available at: www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf.

[7] Maryland Health Care Commission, *Understanding Eligibility and Billing for Telehealth*, March 2020. Available at: mhcc.maryland.gov/mhcc/pages/hit/hit/documents/HIT_Payer_Coverage_Billing_Expansion_COVID_19.pdf.

[8] Maryland Health Care Commission, *Making the Virtual Visit a Success – Provider Tips for Telehealth*, April 2020. Available at: mhcc.maryland.gov/mhcc/pages/hit/hit/documents/HIT_Telehealth_Visit_Flyer.pdf.