

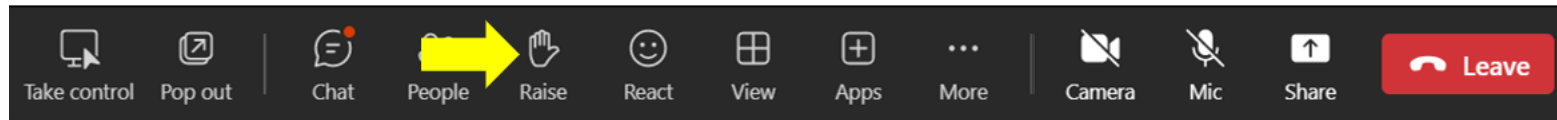


Telebehavioral Health in PA

January 29, 2024

Office of Mental Health and Substance Abuse Services

- All attendees are muted. Please remain muted to eliminate background noise.
- Please submit questions through the chat function.
- Please use the raise your hand function located at the top of your screen to speak.



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Purpose

Gather constructive stakeholder input on how the state can affect positive change for telebehavioral health services.

Agenda

- OMHSAS Responsibilities
- Background and Definitions
- Current Regulations
- Challenges in Telebehavioral Health
- Discussion Questions
- Contact Us

Promoting Access

- OMHSAS supports choice and access to services for beneficiaries that best serve their needs and are delivered in the manner they prefer.

Ensuring Health and Safety

- OMHSAS licenses a variety of mental health and support services to ensure health and safety standards are being met for consumers.

Preventing Fraud

- OMHSAS is responsible for ensuring that appropriate verifications are secured to prevent fraudulent Medical Assistance (MA) Program billing.

- **What do we mean by telebehavioral health?**
 - Telebehavioral health requires real-time, two-way communication in which both parties can see **and hear** one another.



Audio-only requires real-time, two-way communication in which both parties can hear each other, but neither party can see the other. Audio-only is not a permitted service delivery method when references are made to telebehavioral health unless audio-only is specifically identified.

- **What are outpatient psychiatric services?**
 - Outpatient psychiatric services include psychiatric assessment, medication management, individual and group therapy.
- **How does the term “clinic” relate to these services?**
 - Psychiatric outpatient clinic service requirements are outlined within the "clinic" category of the PA Medical Assistance State Plan. CMS has specific requirements for services that are categorized as "clinics."

There are both state and federal regulations that govern what services are permitted, staffing, and reimbursement for telebehavioral health.

Let's start by reviewing the federal regulations...

Federal Medicaid payment regulations for clinic services:

- Psychiatric Outpatient Clinic Services seeking reimbursement from the Pennsylvania Medicaid program are subject to federal Medicaid payment regulations for clinics contained in [42 CFR § 440.90 - Clinic services](#).
- The regulations cited above require that services furnished at the clinic shall be by or under the direction of a physician.
- There is no possibility to transform a “clinic” service into a 100% telehealth service where both the recipient and practitioner can be located outside of the clinic building.

State regulations/statute related to psychiatric outpatient clinic services:

Act 76 of 2022 supercedes the regulations contained in 55 Pa. Code § 5200.3. Definitions and defines “Telebehavioral health technology” as follows:

- (1) Any of the following:
 - (i) Real-time interactive audio and video communication using technology that conforms to industry-wide standards and is in compliance with Federal and State privacy and security laws.
 - (ii) Real-time interactive audio-only telecommunication, provided that the use of audio-only telecommunication technology is consistent with Federal and State laws, guidance and requirements.
- (2) The term does not include technology solely using voicemail, electronic mail messages, facsimile transmissions or instant messaging, or a combination thereof.

State regulations/statute related to psychiatric outpatient clinic services:

55 Pa. Code § 5200.22. Staffing pattern requires the following:

- (1) At least 50% of the treatment staff providing psychotherapy services shall be mental health professionals.
- (2) A psychiatric outpatient clinic is required to have 2 hours of psychiatric time per week for each FTE mental health professional and mental health worker providing clinical services.
- (3) The psychiatrist must provide 50% of the required psychiatric time at the psychiatric outpatient clinic.

State regulations/statute related to psychiatric outpatient clinic services:

Act 76 of 2022 supersedes some requirements originally established in 55 Pa. Code § 5200.22. Staffing pattern and established the following:

- “Required psychiatric time may be provided in person or by the use of telebehavioral health technology by psychiatrists, as specified by department regulations. Advanced practice professionals may also provide a portion of the psychiatric time, as specified by department regulations, either in person or by the use of telebehavioral health technology.”
- “Nothing in this section shall be construed to limit the ability of the department to issue a waiver pursuant to regulation.” *(NOTE: This statutory language permits OMHSAS to issue appropriate waivers to the 5200.22 regulations.)*

- Multiple layers of regulations and rigidity of federal government to entertain certain changes
- Differing requirements for payment and staffing based on service type
- Striking a balance between antiquated pre-COVID practices and COVID/post-COVID practices that continue to protect the health and safety of consumers while allowing choice
- Consumer access to necessary tools such as audio-visual devices, broadband, and cellular service in certain areas of the state

- Do you think service type should define what service can be delivered via telebehavioral health? *(For example, should higher acuity services require more in-person service delivery than lower acuity services?)*
- Do you think service type should define what percentage of services can be delivered via telebehavioral health?

- **What services should (or should not) be permitted to be delivered via audio-only telebehavioral health?**
- **What obligations should a provider have if a recipient needs to be seen in-person because of a personal decision, change in need, or no longer being able to access technology?**

Do you have additional feedback?

Please email us at:

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