

NH Department of Health and Human Services (DHHS)
 Division for Behavioral Health
 Bureau of Mental Health Services

105 Pleasant St.
 Concord, NH 03301

Community Mental Health Centers

DATE:	April 17, 2020
TO:	Community Mental Health Programs
FROM:	Julianne Carbin, Director, Bureau of Mental Health Services
SUBJECT:	COVID-19 Emergency Guidance # <u>5</u> Community Mental Health Center Questions

The Bureau of Mental Health Services (BMHS) is working with our provider community to adhere to the guidance outlined by the Centers for Disease Control (CDC), the State's Division of Public Health Services, and our federal and State partners. Although organizations are responsible for daily operations and management of their COVID-19 responses, the following common questions have been raised by providers and therefore guidance is being provided.

For site/program specific questions, please reach out to us directly by sending correspondence to all of the following: Julianne Carbin, Kelley Capuchino, and Erica Ungarelli, with a CC to Julia McNamara.

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 ERICA.UNGARELLI@dhhs.nh.gov; Julia.McNamara@dhhs.nh.gov

The Bureau extends its sincere gratitude to those who are working to ensure the health and safety of the individuals and families we serve.

Timeline

COVID-19 Emergency guidance will be in place for 60-days effective Wednesday, March 18, 2020. Where a response provides an extension that exceed this 60-day period, the extension applies. The BMHS will provide, modify and extend guidance as needed.

Update to Previously Published Responses

Question 1 (Update to Question 10 on April 1, 2020 COVID-19 Emergency Guidance #3 NHCBA Submitted Questions):

Can coverage in cases coming up for Medicaid redetermination be extended for 6 months?

Response:

No. Medicaid redeterminations are not being extended. If they are submitted online or in paper, they will be processed, without any interview or phone interview. If a client cannot submit all required verifications, please notify Medicaid and it will process the redetermination using the information on file. Even if a client submits information that would normally result in closure, Medical Assistance (MA) will remain open and we will reconsider the case after the public health emergency (PHE) passes. Similarly, even if a client does not provide the redetermination application, we will leave MA open, but all necessary paperwork for a redetermination must be filed after the PHE. MA will not be closed unless the client requests the file to be closed, is deceased, or is no longer a resident.

Question 2 (Update to Question 23 on April 1, 2020 COVID-19 Emergency Guidance #3 NHCBA Submitted Questions):

Will the CARE funds be counted towards income limits for disability eligibility? Some clients will be receiving up to \$600/week which if counted as income would make them ineligible for disability.

Response:

Neither the \$1,200 one-time payment per eligible taxpayer (including the \$500 per child) nor the \$600 weekly federal unemployment stimulus payments will be counted towards income limits. Further, no adverse eligibility action can be taken against individuals who were eligible as of March 18, 2020 through the end of the month in which the public health emergency terminates. Please note that this guidance as to how CARE funds affect Medicaid eligibility does not extend to other program areas such as ATPD cash and food assistance benefits.

Question 3:

With respect to the **April 2, 2020 COVID-19 Emergency Guidance #4 – Provider Signature and Review Requirements for Treatment Plans**, what exactly is being waived? The document states who can sign Individual Service Plans (ISPs) and child and family service plans in lieu of a physician, but also states that providers must obtain a physical/psychiatrist signature on either the treatment plan or a treatment plan review in a calendar year for Medicaid claim compliance.

Response:

The BMHS is revising this guidance to eliminate the requirement that one ISP review include a physician signature. 42 CFR § 485.916 provides that the interdisciplinary team that is responsible, with the client, for directing, coordinating, and managing the care and

services furnished to the client can be led by any of the following: a physician, nurse practitioner, physician assistant, clinical psychologist, or clinical social worker.

<https://ecfr.io/Title-42/sp42.5.485.j>

Program & Service Planning Questions

Question 4:

How should centers proceed with rent payments at community residences for clients who are temporarily staying elsewhere, but are still residents whose beds have not been reassigned? Do they pay full rent, partial to "hold their spot" or not pay at all?

Response:

In the case of housing funded through the Department, clients must continue to pay their share of rent if they desire to retain their bed in a community residence while they temporarily stay elsewhere during the PHE. If there are extenuating circumstances, centers should contact the BMHS and determinations will be made on a case-by case basis. For residences funded through other sources, centers should refer to the applicable policies and requirements.

Question 5:

How should centers report on their Supported Employment (SE) waitlist for clients not receiving SE because of COVID-19? Some clients are not receiving SE for various reasons, such as focusing instead on symptom management due to the pandemic, refusal to receive SE, SE staff are allocated elsewhere during the pandemic, etc. Does being on the waitlist for pandemic-related reasons need to be counted as "waiting" on the waitlist?

Response:

If the individual desires SE, but the center is unable to provide it due to staffing issues, the individual should be counted on the waitlist, even if the center's staffing issues are due to COVID-19. If the individual is not receiving SE due to COVID-19-related issues affecting the individual, such as a need to focus instead on symptom management or refusal to receive SE, then the individual should not be counted on the waitlist, but should be tracked by the center for follow up after the public health emergency.

Question 6:

If centers need to provide additional services to clients beyond what is prescribed in their treatment plan, how should this be addressed? Should/can treatment plans be temporarily updated to reflect the change or should additional services be categorized as crisis/emergency?

Response:

Centers should temporarily update treatment plans to reflect the additional services needed by clients, because centers may only deliver and bill for services identified on the

treatment plan in relationship to identified goals and objectives. Please refer to the guidance relaxing the signature requirements for treatment plans facilitates temporary updates.

Question 7:

Bureau of Elderly and Adult Services (BEAS) registry checks – the practice has been to fax forms to BEAS where they were reviewed and then returned to the provider agency stamped as having findings or no findings. Are there still staff onsite to process these forms or is there a change in practice?

Response:

Currently, there is no change in practice for BEAS registry checks. Please continue to fax the forms in and they will be returned as usual following review.

Question 8:

What is going to happen with the Assertive Community Treatment (ACT) and Supported Employment (SE) fidelity reviews that are scheduled to take place during the State of Emergency? Will they be canceled or rescheduled?

Response:

All ACT and SE fidelity reviews scheduled during the declared public health emergency will be canceled. Reviews will commence 30 days after the emergency order is lifted. The Bureau will communicate directly with CMHCs on a one-on-one basis regarding any cancelations and next steps. CMHC teams are expected to continue their quality improvement efforts in partnership with the Bureau and Dartmouth-Hitchcock consultants through the use of regular consultation and quality improvement plans. Any adjustments to trainings, including cancelations or virtual offerings, will be communicated directly to CMHC teams.

Staffing Questions

Question 9:

For staff who are on furlough and claiming unemployment will centers need to re-do a background check when they return, based on the requirement in He-M 403.07(b) that any “re-hired” staff members have new background checks?”

Response

If staff are on furlough and collecting unemployment during the COVID-19 public health emergency, their employment has not been terminated. Therefore, a new background check is not required when the staff return to work. For staff whose employment has been terminated, please refer to the response to Question 1 concerning staff hiring in the April 12, 2020 COVID-19 Emergency Guidance #3 NH Community Behavioral Health Association Submitted Questions

Rule Questions

Question 10:

Will the BMHS provide a global waiver of Individualized Resiliency and Recovery Oriented Services (IROS) staff qualifications to allow current CMHC staff who do not meet the minimum education/experience requirements for case management to provide and bill for the service?

Response:

The BMHS is not providing a general waiver of IROS staff qualifications. However, through He-M 426.24, centers may request a waiver of IROS qualifications for staff on an individual basis.

Question 11:

How should centers address the guidance around He-M 309.05 staff signatures to authenticate clients' verbal consent in regards to releases around substance abuse, therapeutic notes, etc. 42 CFR applies to SUD, and no guidance has been released for that regulation. What information can be released with only verbal consent from the client?

Response

The federal government has released no guidance relaxing the regulation in 42 CFR part 2, other than to state that “under the medical emergency exception, providers make their own determinations whether a bona fide medical emergency exists for purposes of providing needed treatment to patients.”

<https://www.samhsa.gov/sites/default/files/covid-19-42-cfr-part-2-guidance-03192020.pdf>

Unless the center can construe the release as part of a medical emergency, only information not covered by 42 CFR may be released with verbal consent from the client. For such information not covered by 42 CFR, please refer to the April 3, 2020 COVID-19 Emergency Guidance #2 (Revised) – Waiver/Non-Enforcement of He-M 300 and He-M 400 Client Signature Requirements that allows documented verbal consent for the release of information in the individual's record to any person or organization pursuant to He-M 309.05(f)(3).

Billing/Financial & Coverage Questions

Question 12:

Does continuous coverage for the emergency period apply to individuals who are receiving benefits during a period of presumptive eligibility?

Response:

Individuals who have been determined presumptively eligible for Medicaid have not received a determination of eligibility under the State Plan, and are therefore not “enrolled” and subject to the requirements for continuous coverage described under section 6008 of the Families First Coronavirus Response Act.

Question 13:

How should centers address Medicaid clients who are unable to get enough minutes due to spend downs to be able to receive all of their services?

Response:

Centers may use the technology funds they receive from the BMHS to purchase additional minutes for these clients.

Question 14:

Centers are running into billing challenges with dual eligible clients (Medicaid and Medicare) because codes and modifiers are different. Will the State allow payment as secondary for telephone services even if the CPT codes and place of service on the primary explanation of benefits will not match the CPT codes and place of service on the claim being submitted to Medicaid?

Response:

The Department is working to ensure that Conduent and the MCOs are able to process your currently covered services when rendered via telehealth using the temporary modifier 95 and place of service. The temporary modifier and place of service codes have been tested in the Conduent claims environment and will pay for currently covered services.

Question 15:

Will NH Medicaid allow primary payment for dual eligible clients whose services are rendered using audio only?

Response:

NH Medicaid fee for service claims using the GY modifier will continue to pay as they did prior to the public health emergency. MCOs should be prepared to process claims for those services that are already set up as a GY in the NH Medicaid fee for service environment. The Department is setting up some additional codes to pay as GY, including 98966, 98967, 98968, 99204 and 99205. We do not expect that hospital visits or psychological testing would be rendered over telephone using audio only, and therefore would not require the GY modifier to be set up.

Question 16:

Will the Department allow centers to bill for staff members picking up things for clients such as prescriptions, groceries, etc. for clients who are unable or unwilling to go out to get such items?

Response:

No. Shopping on behalf of a Medicaid recipient while simply having the individual on the phone is not an intervention that constitutes a Medicaid-covered service. If Functional Support Services (FSS) is being provided in accordance with the individual's Individual Service Plan over the phone while staff are picking up groceries or medications for individuals, however, the service is covered because during the FSS can be provided via audio (telephone) during the public health emergency.

Telehealth Questions**Question 17:**

Can prescriptions for ADHD medications and benzodiazepines be done via telehealth during phone sessions?

Response:

ADHD medications and benzodiazepines are controlled drugs, and statutes such as RSA 329:1-d limit the ability to prescribe controlled drugs through telemedicine. Such statutes are overridden by Executive Order #8 during the State of Emergency, until the Order is rescinded or the State of Emergency is terminated, whichever happens first. However, there are federal requirements to which practitioners must adhere when prescribing controlled substances, notwithstanding the State's decision to relax certain rules during this period. The DEA defines telemedicine as real-time, two-way, and audio-visual, meaning more than an audio-only telephone conversation. It is up to all practitioners to ensure compliance with all State and federal laws. More information is available regarding allowances made to the Federal requirements for e-prescribing controlled substances on the DEA website: <https://www.deadiversion.usdoj.gov/coronavirus.html>

Question 18:

Can MCOs pay out of network providers for their services if the service is provided via telehealth in accordance to Executive Order #8?

Response: All providers must be enrolled in NH Medicaid in order to be paid through the Medicaid Program.

Question 19:

Are practitioners able to prescribe over telehealth?

Response:

For prescribing controlled drugs over telehealth, please refer to the Response to Question 4. For prescribing non-controlled medications, please refer to telehealth guidance by the Office of Professional Licensure and Certification, which is found at the State's COVID-19 website through the Resources & Guidance tab for Healthcare Providers under Telehealth, or through the link below:

<https://www.oplc.nh.gov/nursing/documents/oplc-guidance-telehealth.pdf>

Question 20:

Are there any updates as to information on commercial insurance coverage for telehealth?

Response:

The New Hampshire Insurance Department (NHID) has scheduled the next Mental Health and Addiction Services Advisory Committee for the week of April 20, 2020. NHID is available to answer your questions and can be reached at (800) 852-3416. Below is a link to guidance posted on the NHID website:

<https://www.nh.gov/insurance/media/bulletins/2020/documents/ins-20-24-ab-telehealth-guidance.pdf>

Links to commercial plans with information on their COVID policies, including telehealth billing, are below:

Atena:

<https://www.aetna.com/health-care-professionals/provider-education-manuals/covid-faq.html>

Anthem:

<https://providernews.anthem.com/new-hampshire/article/information-from-anthem-for-care-providers-about-covid-19-updated-march-19-2020-2>

Cigna:

<https://static.cigna.com/assets/chcp/resourceLibrary/medicalResourcesList/medicalDoingBusinessWithCigna/medicalDbwcCOVID-19.html>

Harvard Pilgrim:

https://www.harvardpilgrim.org/pls/portal/docs/PAGE/PROVIDERS/MANUALS/PAYMENT%20POLICIES/H-6%20TELEMEDICINE_INTERIM_032420.PDF

https://www.harvardpilgrim.org/portal/page?_pageid=253,1&_dad=portal&_schema=PORTAL

Tufts:

<https://thfp.com/providers/provider-information/coronavirus-updates-for-providers>

United Healthcare:

<https://www.uhcprovider.com/content/provider/en/viewer.html?file=https%3A%2F%2Fwww.uhcprovider.com%2Fcontent%2Fdam%2Fprovider%2Fdocs%2Fpublic%2Fpolicies%2Fcomm-reimbursement%2FCOMM-Telehealth-and-Telemedicine-Policy.pdf>

New Hampshire Hospital Questions

Question 21:

Does New Hampshire Hospital have the ability to admit patients directly from a CMHC if the patient meets Involuntary Emergency Admission (IEA) criteria?

Response:

New Hampshire Hospital created the following response to this question and distributed to all CMHCs on 4/15/20:

Admitting patients from CMHCs without emergency department evaluations
(final 4-13-2020)

New Hampshire Hospital will admit patients directly from a CMHC if the patient meets IEA criteria and:

- Is reasonably well known by the CMHC such that the CHMC is aware of his or her health status
- Does not have a significant general medical illness such as heart disease, kidney disease, unstable diabetes, or serious chronic obstructive pulmonary disease.
- Is not intoxicated on alcohol or drugs
- Does not have symptoms consistent with COVID-19 (fever, cough, shortness of breath, sore throat) unless a test was done while symptomatic with a negative result
- Does not have a recent head injury without a medical evaluation
- Does not have a recent seizure without a medical evaluation
- Does not have a recent musculoskeletal injury without a medical evaluation
- Under age 55

To admit we will need:

- 2-3 most recent psychiatric notes
 - Current list of all medications
 - List of allergies
 - Good general medical history (ideally with notes from primary care)
 - Vitals and, if possible, brief physical
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Please continue to stay informed with the frequent updates about this evolving outbreak at our DHHS webpage: <https://www.dhhs.nh.gov/dphs/cdcs/2019-ncov.htm>. There may also be current situation updates and technical guidance on the CDC's website at:

<https://www.cdc.gov/coronavirus/2019-ncov/index.html> and

<https://www.cdc.gov/coronavirus/2019-ncov/faq.html>

Further guidance may be found at the SAMHSA website:

<https://www.samhsa.gov/coronavirus>

There are great resources and supports available through NAMI NH (naminh.org or visit its Facebook page), including information, links, virtual peer support groups, and education classes.

NH Peer Support Agencies continue to provide phone support, virtual peer support groups and chat forums, and offer warm line support services (learn more at:

<https://www.dhhs.nh.gov/dcbcs/bbh/peer.htm>). There are also phone and text lines available for support:

- [Headrest](#) local behavioral health crisis line – call 603-448-4400 for free and confidential support for people affected by substance use and/or mental distress, and those experiencing a crisis, or in need of support. Counselors are available to help callers lower their anxiety and connect to other community resources.
- [National Suicide Prevention Lifeline](#) – call 1-800-273-TALK (8255) for free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals.
- [Crisis Text Line](#) – free, 24/7 support for those in crisis. Text HOME to 741741 from anywhere in the US to text with a trained Crisis Counselor.
- [Veterans Crisis Line](#) – veterans and their loved ones can call 1-800-273-8255 and Press 1, [chat online](#), or send a text message to 838255 to receive confidential support 24 hours a day, 7 days a week, 365 days a year. Support for [deaf and hard of hearing](#) individuals is available.
- [Disaster Distress Helpline](#) – call 1-800-985-5990 for a 24/7 national hotline dedicated to providing immediate crisis counseling for people who are experiencing emotional distress related to any natural or human-caused disaster.