

Publications

Health Care Alert: The Impact of Emergency Telehealth Rules on OMHAS Certified Behavioral Healthcare Providers

Related Attorneys

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In our [previous alert](#), we provided a comprehensive overview of the Ohio Department of Medicaid (ODM) emergency rule which expanded Medicaid coverage for services rendered via telehealth by eligible Medicaid providers.

With respect to Medicaid community behavioral healthcare services provided by Ohio Department of Mental Health and Addiction Services (OMHAS) certified providers, these emergency rules (1) provide *additional* modalities by which such agencies may provide Medicaid reimbursable services; (2) *relax* current rules regarding telehealth; and (3) *expand* the types of services that may be provided by telehealth.

Importantly, these rules do not restrict current requirements regarding which types of practitioners may provide Medicaid community behavioral healthcare services.

Although the ODM rule contains numerous provisions, it is critical to understand that only paragraph (C) applies to OMHAS certified providers. Moreover, except as expressly stated in this paragraph, the rules that typically govern OMHAS providers' Medicaid billing continue to apply.^[1]

As a result, the emergency rule's general prohibition on billing for Medicaid services for supervised, dependent practitioners (e.g., LPCs, LSWs, LCDCs) and supervised trainees **does not apply to OMHAS certified providers**. Rather, we understand this language to prohibit these types of practitioners from *independently* seeking Medicaid reimbursement for services. This means that OMHAS certified providers may continue to bill for Medicaid community behavioral healthcare services of supervised or dependent licensees.

In addition to permitting supervised, dependent practitioners and supervised trainees to continue to provide services via telehealth, the following changes impact OMHAS certified providers:

- Additional types of services may now be rendered via interactive videoconferencing, pursuant to O.A.C. 5122-29-31,^[2] and will be

reimbursed under ODM's emergency telehealth services rule;

- Certain confidentiality and privacy requirements limiting the technologies that may be used to provide telehealth services have been relaxed;
- New and established patients may be provided services through telehealth (no initial face-to-face visit necessary);
- The categories of permissible "telehealth" activities have been broadened to include technologies that do not permit real-time communication or have both audio and video elements, such as phone calls and e-mails;
- Certain service-specific requirements for face-to-face service delivery are suspended;
- The requirement that a provider have previously met and provided services to a Medicaid-covered individual in order to provider him or her with crisis intervention services is suspended; and
- Any OMHAS-certified community behavioral health centers that have previously billed Medicaid for peer recovery support may deliver peer recovery support services via telehealth.

We encourage all providers to thoroughly read both rules in their entirety. In addition, ODM has issued a [telehealth FAQ document](#) and the state has published a [MITS Bits](#) on these emergency rules. If you have questions about the new Medicaid or OMHAS rules, or their impact on your organization, please contact Suzanne Scrutton, Liam Gruz, or Mairi Mull.

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Vorys COVID-19 Task Force

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We are taking significant steps to ensure we remain proactive during this extremely fluid environment. The business and legal challenges our clients are facing are changing each day.

We have also established a comprehensive Coronavirus Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.

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[1] See O.A.C. §§ 5160-27-02 and 5160-8-05.

[2] As discussed in our previous alert, OMHAS released a revised version of O.A.C. § 5122-29-31 in conjunction with the publication of the new Medicaid rule.