

Information for behavioral health providers regarding COVID-19 and telemedicine

We have received questions and requests regarding telehealth coverage of behavioral health services during the COVID-19 emergency. First and foremost, thank you for your concern for the well-being of the people you care for. We are very carefully considering your requests.

All health plans regulated by the state must cover telemedicine per RCW 48.43.735 if:

- The plan provides coverage of the service when provided in person,
- The service is medically necessary,
- The service is included in the “essential health benefits”, and
- The service is determined to be safely and effectively provided through telemedicine according to generally accepted health care practices and standards, and the technology used to provide the service meets state and federal health information privacy and security requirements, such as HIPAA requirements.

Mental health and substance use disorder treatment are essential health benefits under the Affordable Care Act. Under this law, “telemedicine” does not include the use of audio-only telephone, facsimile, or email.

When in doubt, contact the health plan for benefit information.

If you are an in-network provider for a health plan that has refused to cover telemedicine visits that you believe meet the requirements above, please [file a complaint with OIC](#) so that we can investigate.

Coverage of services provided by out-of-network providers may be included in a consumer’s health plan, usually with higher cost-sharing than for in-network providers. If a health plan does not cover out-of-network care, it is not required to cover services provided by out-of-network providers.

Even if a health plan does not cover out-of-network care, it must still have enough mental health and substance use disorder providers in their network. Where a health plan does not have enough in network behavioral health providers, the health plan must ensure through referral by the primary care

provider or otherwise that the enrollee obtains the covered service from a provider within reasonable proximity of the enrollee at no greater cost to the enrollee than if the service were obtained from network providers and facilities. (WAC 284-170-200)

If you or one of your patients believes that their health plan does not have a sufficient number of in-network behavioral health providers, your patient should file a complaint with OIC.

OIC has heard from many behavioral health providers and understands the need for access to behavioral health services during this public health emergency. OIC is actively reviewing its legal authority with respect to the requests for action that have been received. In the meantime, OIC will work to ensure that health plans are meeting current requirements for coverage of telemedicine services.

Some resources that might be helpful:

- <https://evisit.com/resources/what-is-telemedicine/>
- <https://www.hipaajournal.com/hipaa-guidelines-on-telemedicine/>
- <https://telehealth.org/blog/facetime-hipaa/>

Medicare telemedicine new legislation:

- <https://www.usnews.com/news/health-news/articles/2020-03-06/as-coronavirus-spreads-medicare-gets-telemedicine-option>
- <https://www.cms.gov/files/document/03052020-medicare-covid-19-fact-sheet.pdf>