

Purpose

To describe telecommunications systems and provide guidance in the use of technology as permitted in the provision of home health services.

Definition

- I. The following definitions are provided by the Office for Civil Rights:
 - A. Non-public facing remote communication product: A “non-public facing” remote communication product is one that, as a default, allows only the intended parties to participate in the communication. Non-public facing remote communication products would include, for example, platforms such as Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, WhatsApp video chat, Zoom, or Skype. Such products also would include commonly used texting applications such as Signal, Jabber, Facebook Messenger, Google Hangouts, WhatsApp, or iMessage. Typically, these platforms employ end-to-end encryption, which allows only an individual and the person with whom the individual is communicating to see what is transmitted. The platforms also support individual user accounts, logins, and passcodes to help limit access and verify participants. In addition, participants are able to assert some degree of control over particular capabilities, such as choosing to record or not record the communication or to mute or turn off the video or audio signal at any point.
 - B. In contrast, public-facing products such as TikTok, Facebook Live, Twitch, or a chat room like Slack are not acceptable forms of remote communication for telehealth because they are designed to be open to the public or allow wide or indiscriminate access to the communication. (e.g.- Use of Facebook Live to stream a presentation made available to all patients/clients about the risks of COVID-19 would not be considered reasonably private provision of these services. A provider that chooses to host such a public-facing presentation would not be covered by this and should not identify patients/clients or offer individualized patient/client advice in such a live stream.)

Policy

- I. The Agency may use telecommunications technology in the provision of patient/client care as allowed by the Centers for Medicare and Medicaid Services (CMS).
- II. The use of telecommunications systems is allowed, as an adjunct to ordered visits if:
 - A. The use of technology is included on the plan of care and is tied to the patient/client-specific needs as identified in the comprehensive assessment and the measurable outcomes that the Agency anticipates will occur as a result of implementing the plan of care.
 - B. The services provided via technology must be related to the services being furnished during home visits by the nursing or therapy staff.

Use of Telecommunications in Care Delivery**IM.50****Page 2 of 3**

- C. The services furnished via a telecommunications system cannot be considered a home health visit for payment or eligibility purposes.
- III. The Agency may use telecommunications technology in the provision of the face-to-face visit as allowed by the Centers for Medicare and Medicaid Services (CMS).
- IV. The Agency will provide scheduled remote services to eligible patients/clients via an approved non-public facing remote communication product.
- V. Services provided via telecommunications systems will be provided as ordered in the patient's/client's plan of care.

Procedure

- I. Services, including in-person home visits and services provided via telecommunications will be provided in accordance with physician orders.
- II. Telecommunications technology can include, for example: remote patient monitoring; telephone calls (audio only and TTY); and two-way audio-video technology that allows for real-time interaction between the clinician and patient. *
- III. The Agency is responsible for selection of an appropriate platform, approved by the Office for Civil Rights, for providing telecommunication services. The technology will meet the definition for non-public facing remote communication product (see definition above).
 - A. Qualified Agency personnel will teach the patient/client to use any equipment needed or provided.
 - B. The Agency will ensure the communications product being used protects the security of protected patient/client information. If it is not HIPAA compliant, the patient/client will be informed and the patient/client will have the opportunity to consent to or opt out of telecommunications services.
 - C. The Agency will document the patient's/client's and/or caregiver's initial competency in use of the telecommunications equipment.
- IV. The patient/client will be informed regarding the plan of care and will be given telephone numbers to call in case of questions or an emergency.
- V. Remote services using telecommunication technology will be provided by a registered nurse, licensed practical/vocational nurse under the supervision of a registered nurse, licensed physical, occupational or speech therapist, or licensed physical, occupational, or speech therapy assistant under the supervision of the appropriate licensed therapist, or a social worker.

Reference

*HHS Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

*Home Health Agencies: CMS Flexibilities to Fight COVID-19

<https://www.cms.gov/files/document/home-health-agencies-cms-flexibilities-fight-covid-19.pdf>

*Office of Civil Rights: FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency

<https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf>

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