

## Pending End of PA DHS Regulatory Suspensions and Reminder of Telehealth Waiver Process for Outpatient Services

---

Pursuant to Act 73 of 2021, the suspensions of various regulatory provisions under the state disaster emergency declaration were extended by the Pennsylvania Department of Human Services (DHS) until March 31, 2022, unless sooner reinstated by DHS. Effective December 6, 2021, DHS reinstated several suspended regulations in whole or in part, but some remained suspended until now. Please view [DHS's list of the regulations that were suspended in whole or in part that will be moving to reinstatement](#).

**This notice is to remind the CBH Provider Network about the end of suspension for any associated regulations, unless there is legislative action by the Commonwealth of Pennsylvania that occurs on or prior to March 31, 2022, to extend them further.**

As another reminder, the widespread use of telehealth as a means of billable service delivery will continue following the end of these suspensions and beyond, due to the issuance of [OMHSAS Provider Bulletin 21-09](#) (effective 9/30/21), which retains the use of telehealth going forward. However, one main caveat within that Bulletin is that Providers with outpatient psychiatric licenses via OMHSAS and/or outpatient drug and alcohol licenses via DDAP will need to obtain a waiver for the corresponding license to still utilize audio-only telehealth. This is due to specific language currently in the regulations of each of these license types, restricting services via telephone from being billable, which OMHSAS and DDAP hope to remove in the future versions of these regulations. This has not been enforced during the suspension period, but effective 3/31/22, Providers must have this state-approved waiver in place if planning to utilize audio-only telehealth, specifically within outpatient clinic-licensed services. For Providers with one or both of these types of outpatient licenses, there is [guidance regarding how to obtain a waiver](#) (and the associated County Letter of Support needed ONLY for outpatient psychiatric licensed Providers).

### OMHSAS Responses to Questions Posed During the March 15, 2022 Telehealth Stakeholder Webinar

Following its Stakeholder Webinar on March 15, 2022, OMHSAS issued the Q&A listed below with more information about waivers and telehealth:

- 1. Will the Bulletin [OMHSAS-21-09](#), “*Guidelines for the Delivery of Behavioral Health Services Through Telehealth*” continue to be applicable even after the regulatory suspensions end?**

Yes. The guidelines outlined in the Bulletin OMHSAS-21-09 will remain in effect even after the regulatory suspensions end.

## Pending End of PA DHS Regulatory Suspensions and Reminder of Telehealth Waiver Process for Outpatient Services

---

### 2. Waivers

#### 2.a. What are the three standard waiver requests that OMHSAS will approve?

- » **Mental Health Intensive Case Management - 55 Pa. Code § 5221.33(4)(iii):** Signature requirement in encounter form is waived where a signature cannot be obtained when delivering Mental Health Intensive Case Management Services.
- » **Outpatient Psychiatric Services - 55 Pa. Code § 1153.14(1):** For use of audio-only service when the individual served does not have access to video capability or for an urgent medical situation.
- » **Outpatient Drug and Alcohol Clinic Services - 55 Pa. Code § 1223.14(2):** For use of audio-only service when the individual served does not have access to video capability or for an urgent medical situation.

#### 2.b. Where can I get the waiver request form for these three waivers?

It is available at: <https://www.paproviders.org/omhsas-guidance-telehealthregulatory-waiver-request/>

#### 2.c. When will we know about the action taken on our waiver requests?

OMHSAS will make a decision regarding all pending waivers by March 25 and notify Providers of the decision by April 1. For requests that have been received after March 25 and by March 31, Providers will be notified of OMHSAS's decision after April 1. Approved waivers will be issued with an effective date of April 1.

#### 2.d. Will previous waiver requests be still valid without resubmission?

Approved waivers will remain in effect for one year from approval effective date.

#### 2.e. If we have applied for the waiver for D&A back in September and have not heard from OMHSAS, should we resubmit?

If we have received your waiver request, you should not have to resubmit. If you have not heard back from OMHSAS by April 4, 2022 for those requests

## Pending End of PA DHS Regulatory Suspensions and Reminder of Telehealth Waiver Process for Outpatient Services

---

submitted by March 1, 2022, please inquire about the status of your waiver request by sending an email to [RA-pwbpppd@pa.gov](mailto:RA-pwbpppd@pa.gov).

### 2.f. Where should I submit my waiver?

- » For all Mental Health Intensive Case Management (55 Pa. Code 5221) and Outpatient Psychiatric Clinic Waivers (55 Pa. Code 1153): Please submit all waiver requests to the appropriate OMHSAS Regional Field Office with an attached letter of support from the County MH/ID Administrator where your primary licensed location is at.
- » For all Outpatient Drug and Alcohol Clinic Services (55 Pa. Code 1223) Waivers: Please submit to [RA-pwbpppd@pa.gov](mailto:RA-pwbpppd@pa.gov). No letter of support is required for these waivers.

### 2.g. Is it mandatory for FQHCs to complete the above waivers?

Yes, if the FQHC is licensed by the Commonwealth to provide any of the above three services listed in 2.1, they will need to apply for a waiver. The FQHC must still follow their HRSA-approved Scope of Project and any other applicable federal guidance for FQHCs.

### 3. Does any regulation other than Outpatient Psychiatric Services (55 Pa. Code § 1153) and Outpatient Drug and Alcohol Clinic Services (55 Pa. Code § 1223) need a waiver to provide audio-only service?

No. It should also be noted that 55 Pa. Code § 1153 applies to *psychiatric outpatient services, Mobile Mental Health Treatment services, and psychiatric outpatient partial hospitalization services* rendered to eligible medical Assistance (MA) beneficiaries by psychiatric outpatient clinics and psychiatric outpatient partial hospitalization facilities enrolled as providers under the MA program.

### 4. Will verbal consent be still accepted?

Yes. OMHSAS Bulletin OMHSAS-21-09 states that “*Signatures for consent to treatment, service verification, and acknowledgement of receipt of treatment or service plan(s) may include hand-written or electronic signatures. Consistent with Act 69 of 1999 Electronic Transactions Act, an electronic signature is an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a*

## Pending End of PA DHS Regulatory Suspensions and Reminder of Telehealth Waiver Process for Outpatient Services

---

*person with the intent to sign the record. In situations where signatures cannot be obtained from the individual served or their legal guardian, as applicable, documentation of verbal consent in the medical record meets the requirement for a signature except where inconsistent with Pennsylvania regulations.” Inconsistency with Pennsylvania regulations exists in 55 Pa. Code § 5221.33(4)(iii). For that regulation, a waiver is needed to allow verbal consent.*

**5. Where can I find more information on telehealth in PA?**

For more information on behavioral health telehealth, please visit:

<https://www.dhs.pa.gov/Services/Mental-Health-In-PA/Pages/OMHSASBehavioral-Health-Telehealth.aspx>

**6. The current regulatory suspensions are slated to end on March 31st, 2022, unless there is legislative action to extend it. If we want to continue to avail of the flexibility in any of the current regulatory suspensions, should we submit waiver requests?**

Yes, if there is no legislative action to extend it beyond March 31st. Those requests will be reviewed on a case-by-case basis. Please see the [\*Suspended Regulations Due to the COVID-19 Pandemic\*](#).