To: **Autism Waiver Providers**
Brain Injury Waiver Providers
Home and Community-Based Options Waiver Providers
Model Waiver Providers
Community First Choice Providers
Community Personal Assistance Services Providers
Increased Community Services Providers

From: **Robert R. Neall, Secretary**

Re: **COVID-19 #14: Use of Telephonic and Electronic Means of Communication in lieu of Face-to-Face Contact by Direct Care Providers**

Release Date: April 9, 2020

Effective Date: April 2, 2020

NOTE: Please ensure appropriate staff members in your organization are informed of the contents of this memorandum.

Background

On March 5, 2020, Governor Lawrence J. Hogan, Jr., declared a state of emergency due to disease ("COVID-19") caused by the novel coronavirus. The COVID-19 outbreak was declared a national emergency on March 13, 2020, and was previously declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020).

The measures outlined in this document are restricted to use during the emergency declared by Governor Hogan related to the threat of COVID-19 and will expire immediately at the end of the declared emergency or when revised by additional orders such that the Secretary's authority to issue this guidance no longer exists.

The actions outlined below are taken pursuant to the authority vested in the Secretary of Health by the laws of Maryland, including but not limited to Md. HEALTH-GENERAL Code Ann. Sections 18-102 and 18-103 and Executive Order No. 20-04-01-01.

The actions apply to the following programs ("the Programs"):

- Waiver for Children with Autism Spectrum Disorder;
- Waiver for Adults with Brain Injury;
- Home and Community-Based Options Waiver;
- Home Care for Disabled Children Under a Model Waiver;
- Community First Choice;
- Community Personal Assistance Services; and
- Increased Community Services Providers.

This guidance is effective immediately and shall remain in effect until further notice.

Overview

The health care and safety of Medicaid providers and participants is a priority during the COVID-19 state of emergency. To prevent transmission and spread of COVID-19 disease, the Department is allowing certain services covered under these Programs to be delivered either by phone or through telehealth applications.

This document addresses the following:

1. How to Screen Participants and Staff Before Conducting a Face-to-Face Visit;
2. General Guidance: Delivery of Services by Phone or Via Telehealth;
3. Eligibility, Assessment, and Monitoring Activities;
4. Documenting Signatures; and
5. Services that Must be Delivered Face-to-Face.

This guidance applies to **any staff making home visits for any purpose** for any of the aforementioned Programs. It is designed to promote the safety of both staff and the home occupants, while allowing vital home services to be delivered. **Before making the home visit,** a **determination should be made regarding whether the goals of the home visit can be satisfied using remote technology in place of an in-home visit**.

1. How to Screen Participants and Staff Before Conducting a Face-to-Face Visit

While some Program services can be delivered effectively by phone or via telehealth, in certain instances, face-to-face contact may still be clinically indicated and may be a life safety issue. Two screenings should be conducted before a face-to-face visit is conducted: (A) screening of participants and (B) screening of Program staff conducting the visit. Results of these screens and whether the service was provided should be documented in the participant's case file.

(A) Screening of Participants and their Household Members Before a Face-to-Face Visit

Staff should contact the participant **one hour prior** to the home visit and ask if anyone in the household:

1. Has fever, cough, shortness of breath, nausea, vomiting, or diarrhea;
2. Is currently sick with COVID-19 or the flu;
3. Has been told by a health provider that they should not have visitors due to illness.

If the participant screens positive in response to any of these questions, Program staff should ensure that the person has been referred to the appropriate health care provider and coordinate next steps with the participant, their guardian or legally authorized representative, other appropriate Program staff and care providers. If the participant or household member appears to be seriously ill, encourage the participant to contact the primary care provider or, if necessary, to call 9-1-1.

If the participant has an immediate need for services that must be delivered face-to-face, Program staff should take appropriate measures to ensure service needs are met and to safeguard the health, safety and welfare of the participant. Program staff should follow CDC guidance regarding precautions for conducting face-to-face visits. See Section 5 of this document for links to these resources.

If the participant has immediate care management needs, for example, the participant requires assistance with pharmacy or accessing food and other basic needs, Program staff should assure a frequency of contact sufficient to keep the participant healthy and safe.

If the participant does not screen positive in response to any of these questions, the face-to-face visit may proceed at the discretion of the provider and with the consent of the participant.

(B) Screening of Program Staff Before a Face-to-Face Visit

Program staff should also be screened each day before working together in-person and before entering a participant's home for a face-to-face visit. Program providers must strictly enforce policies prohibiting staff showing symptoms of illness to remain at work or visit participants. Staff should only return to work after a period of isolation and without symptoms.

i. Temperature

Staff must do a self-temperature check at least once a day. If temperature reading exceeds 100.4°F [38°C], staff should **NOT** conduct home visits/face-to-face services and should report their status to their supervisor.

ii. Screening

Staff should be screened using the following questions prior to either: (1) reporting to an in-person office; or (2) any home visit. Staff should indicate if anyone (including themselves) in the staff member's household:

- Has fever, cough, shortness of breath, nausea, vomiting, or diarrhea;
- Is currently sick with COVID-19 or the flu; or
- Has been told by a health provider that they should not have visitors due to

illness.

If a staff person, or persons in their household is found to be ill upon screening, the agency should not allow the staff to come to the office or perform home visits. The staff person should contact their primary care physician immediately or be referred to immediate medical care, if indicated.

2. General Guidance: Delivery Services by Phone or Via Telehealth

Whenever possible, Programs are encouraged to deliver services by phone or telehealth. A subset of services that must continue to be provided face-to-face are addressed in Section 5. Under no circumstances should phones or other telehealth technology be used to assess a participant for a medical emergency.

When appropriate, services can be delivered through telehealth using a real-time audio-visual connection that allows the Program staff member to both see and hear the participant. Personal care services that only require verbal cueing (the ability to hear a verbal response from the participant) can be delivered by phone.

Providers who are not able to meet in-person with a participant should make every effort to use the following technology, in order of priority:

1. Traditional telehealth technology which meets all formal requirements pursuant to 10.09.49.
2. If participants are unable to access originating sites possessing fully qualified technology (ability to pan/focus camera, multiple views, etc.) this emergency policy will permit the use of notebook computers or smartphones.
3. If participants cannot access cell phone-based video technology, audio-only telephone calls will be permitted.

- *Note:* Facebook Live, Twitch, TikTok, and similar video communication applications are public facing, and should not be used in the provision of telehealth by covered health care providers.

Programs may use the phone or telehealth to engage in activities such as case management, evaluations, annual level of care determinations, staff meetings, and monitoring of person-centered care plans. Examples of interactions where use of the phone or telehealth is permitted are listed immediately below. This list is not exhaustive. When determining if a service can be safely delivered by phone or telehealth, Program staff should use their best judgement and make decisions that are in accordance with clinical guidance.

- Family and participant consultations;
- Supervision of direct care staff;
- Nurse monitoring;
- Annual, quarterly, or monthly visits previously conducted face-to-face;
- Required care provider team meetings;

- Case management services, including application assistance;
- Personal Assistance Services and Individual Support Services;
- Staff training, if possible and appropriate; and
- Other services as addressed in Section 2.

If the Program staff perform visits by phone or via telehealth instead of face-to-face, direct care staff should respond to all communication from participants and/or their representative within 24 hours. The provider must document all communication in the participant's health record. With appropriate participant consent, direct care staff must be in contact with the other appropriate HCBS providers, other involved providers, informal supports, and family members to ensure adequate and sufficient supports are in place.

All other requirements regarding documentation, maintenance of participant records, and other Program operations continue to apply. Program staff must continue to comply with other Office of Health Care Quality (OHCQ) and Maryland Board of Nursing (MBON) requirements and guidance.

3. Eligibility, Assessment, and Monitoring Activities

(A) Reassessments for Continued Program Eligibility during the State of Emergency

Participants who were eligible for services as of March 1, 2020 will continue to be eligible until March 1, 2021. The Department will not be re-determining continued eligibility for services during the state of emergency.

(B) Performance of Required Assessments and Monitoring Activities; Permitted Extensions

Although eligibility will be extended, assessments should be conducted by phone or via telehealth whenever possible to ensure individuals receive the appropriate level of services.

Information regarding "significant changes" can also be collected by phone or via telehealth and should be documented in Program participants' records appropriately. Temporary increases to a Plan of Care/Plan of Service may be made during the state of emergency for up to fourteen days in the event that an assessment cannot be performed in-person or by phone. The Department will reassess this policy periodically throughout the state of emergency to determine if longer temporary increases are appropriate and make adjustments as necessary. Additional guidance regarding increases to permitted services that will be exempt from this review process will be issued separately.

The following assessments and monitoring activities should be conducted by phone or via telehealth whenever possible.

Mandatory Assessments and Monitoring Activities	Frequency	Program(s) Impacted
Level of Care (LOC)	Initial Annual As Needed	Autism Waiver, Brain Injury, Home and Community-Based Options Waiver, Community First Choice, Increased Community Services, Community Personal Assistance Services, Model Waiver
Plan of Care (POC)	Initial Annual As Needed	Autism Waiver Model Waiver
Plan of Service (POS)	Initial Annual As Needed	Home and Community-Based Options Waiver, Community First Choice, Increased Community Services, Community Personal Assistance Services, Brain Injury,
Treatment Plan	As Needed	Autism Waiver
Risk Assessment	Initial	Autism Waiver
interRAI	Initial Annual As Needed	Home and Community-Based Options Waiver, Community First Choice, Increased Community Services, Community Personal Assistance Services
Community Setting Questionnaire	Initial Annual As Needed	Home and Community-Based Options Waiver, Community First Choice, Increased Community Services, Community Personal Assistance Services
Nurse Monitoring	At least twice annually	Home and Community-Based Options Waiver, Community First Choice, Increased Community Services, Community Personal Assistance Services

If extenuating circumstances prevent completion of any of the above activities in a timely fashion, the participant's eligibility for services will not be impacted. Extensions must be documented by the Program and also reported to the Department. Any contact with participants and providers to discuss extension should be included in this documentation.

(C) Eligibility Evaluation and Initial Level of Care Evaluations for New Participants

Initial eligibility assessments should continue to be performed during the state of emergency by phone or via telehealth. All requirements related to: timeframes, signatures, as well as

documentation and record retention continue to apply. Options for collecting signatures are addressed in Section 4.

> ***Guidance Specific to Community First Choice, Community Personal Assistance Services, Increased Community Services, and Home and Community Based Options Waiver***

The Department will provide technical assistance on a case-by-case basis in the event that neither telephonic, electronic, nor face-to-face assessments can be completed for an individual applying to become a participant in one of the above-mentioned programs because either:

> 1) SNF/NF staff cannot assist staff in completing a telephonic/electronic assessment because of staffing and/or time constraints related to the COVID-19 emergency, or because they do not have the required technology; or

> 2) The participant is sufficiently unable to communicate verbally and no suitable legal representative can assist in completing the assessment.

The Department is considering additional sources of information that can be leveraged to determine medical eligibility and facilitate the enrollment process in combination with changes to the current workflow for the completion of these assessments and will continue to update providers.

4. Documenting Signatures

During the state of emergency, Programs are not required to have Program participants and/or their authorized representatives physically sign documents in-person. Signatures can instead be collected in the following ways.

1. **Electronic signature collected by the provider**

2. **Submission of an Attestation by mail, PDF or photograph**
   a. Participant or their authorized representative may sign and date a paper with the following statement written or printed on it:
      > "I, (insert name of Person/authorized representative/service provider), have reviewed (Name of Document) on (insert reference date) and agree to its content."
   b. A copy of the signed piece of paper should be sent to the Program
      i. By mail
      ii. As a PDF – paper should be scanned and submitted electronically, e.g., by e-mail
      iii. As a photograph – a legible picture of the statement, signature, and date taken and submitted electronically, e.g., by e-mail or text.

The flexibility provided by the Centers for Medicare & Medicaid (CMS) services currently does not allow for verbal consents.   If CMS updates its policy, the Department will align its requirements as well.

5. Services that Must be Delivered Face-to-Face

Certain services can only be provided on a face-to-face basis. Providers and their staff should continue to deliver these services during the state of emergency as long as they can be provided in a manner that is safe for both the provider and the participant.

Providers and their staff should comply with current safety guidance issued by the Centers for Disease Control and Prevention (CDC) and the Maryland Department of Health regarding delivery of care in-person.

Additional Resources
- CDC: https://www.cdc.gov/coronavirus/2019-ncov/index.html
- Maryland Department of Health, Department of Budget Management: https://dbm.maryland.gov/employees/Pages/COVID19.aspx
- See "Guidance for Home Visiting Staff" under Information for State Agencies
- For Medicaid-related Coronavirus updates, visit mmcp.health.maryland.gov.
- For questions about the Coronavirus, visit coronavirus.maryland.gov.
- https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html